

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

116 + 117

Date of Decision : 15.05.2023

1. CWP-10420-2023

Avinash Kaur

....Petitioner

VERSUS

State of Punjab & Others

....Respondents

2. CWP-10449-2023

Ajit Singh

....Petitioner

VERSUS

State of Punjab & Others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. Nakul Sharma, Advocate
for the petitioner(s) in both the cases.

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)

1. The petitioners herein, in the respective writ petitions, filed separate petitions under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the PVCL Act'), before the Collector concerned. The said petitions were decided through separate orders, on 14.02.2019, by the Collector concerned. The said order becomes appended as Annexure P-2 in CWP-10420-2023 and Annexure P-6 in CWP-10449-2023, wherein the Collector concerned, passed a disaffirmative order, declaring the Gram Panchayat concerned, respondent herein, as owner of the disputed land.

2. However, the aggrieved from the said separate orders, as became respectively made by the learned Collector concerned, on each of the separate petitions (*supra*), preferred separate statutory appeals, before the Competent Appellate Authority. The learned Appellate Authority through an order made on 08.07.2022, appended as Annexure P-5 in CWP-10420-2023 and as Annexure P-9 in CWP-10449-2023, rather made a decision, upon appeal No.273 of 2019, as became instituted before it, by one Mahinder Singh. On the above appeal, an order of dismissal was made and the order passed by the learned Collector concerned was upheld.

3. Though there is a complete discussion by the learned Appellate Authority, in respect of appeal No. 273 of 2019. However, the learned Appellate Authority without referring to the facts of each of the separate appeals, and, also without referring to the evidence(s) qua each of the separate appeals, but merely on the basis of the discussion, as, made in respect of appeal No.273 of 2019, as became instituted before it, by one Mahinder Singh, concluded that the other appeals also which became separately instituted before it, and which became assigned separate appeal numbers, and, as arose from separate decision(s), as made by the learned Collector concerned, are also purportedly governed by the facts and evidence, as, adduced in respect of appeal no.273 of 2019. Resultantly all the appeals were also dismissed by the learned Appellate Court.

4. Be that as it may, the learned Appellate Court was required to exercise valid jurisdiction upon each of the separate appeals, and, that could have occurred, only when the facts of each of the separate

appeals were discussed, and, also when the evidence in respect thereof, also became circumspectly deliberated upon, besides became incisively evaluated. However, the above has not happened. Contrarily, and, merely on the basis of the facts and evidence adduced in respect of appeal No.273 of 2019, the learned Appellate Court has made an alike verdict of dismissal upon the other appeals. The above exercising(s) of jurisdiction, by the learned Appellate Authority, in respect of appeals other than appeal No.273 of 2019, is a completely insagacious exercise, besides it is ridden with the vice of grossest non application of mind, and, is required to be undone, through this Court making an order of remand, upon the, learned Appellate Authority concerned, to restore to their original numbers each of the statutory appeals, except appeal No. 273 of 2019, and, to thereafter in accordance with law, pass separate decision(s) upon each of the restored statutory appeals, as became preferred before it, by the aggrieved from the initial order(s), as made by the learned Collector concerned, in petition(s) cast under Section 11 of 'the PVCL Act'.

5. The learned Remandee Court, after receiving the *lis* on remand, shall make lawful order thereons, but only after giving an opportunity of hearing to all affected concerned. The decision, on remand by the Remandee Court shall positively be made within a period of six months from today.

6. Disposed of alongwith all pending applications, if any.

7. No notice at this stage is required to be issued to the respondent-Gram Panchayat, as the Gram Panchayat concerned, is not to be prejudiced by the orders of remand, as made today, after disposing

of the writ petitions (supra) and after quashing the impugned order, as drawn by the learned Appellate Authority concerned.

8. A photocopy of this order be placed on the file of other connected case.

(SURESHWAR THAKUR)
JUDGE

15.05.2023
kavneet singh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No