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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-11815-2023

Date of decision:29.05.2023

JASWANT KAUR AND ORS

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Vikas Mehsempuri Advocate
for the petitioners.

Ms. Deepali Puri, Addl. A.G. Punjab

Mr. Karminster Singh, Advocate and
Mr. Prabhsher Singh Walia, Advocate
for respondent No.4-Gram Panchayat.

SURESHWAR THAKUR, J. (ORAL)

1. It is stated at the bar, by the learned counsel for the petitioners, that in respect of the lands in the instant writ petition, this Court while being seized with CWP-8826-2004, as becomes directed against the concurrently made orders of eviction against the present petitioners, thus has passed the hereinafter extracted order on 16.12.2005.

“Heard. Admitted.

Interim directions to continue, till further orders.”

2. However, subsequently in respect of the very same lands, as are enclosed in writ petition (supra), a title suit under Section 11 of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”), has been instituted against the Gram Panchayat concerned. In the said suit

a declaratory relief for the present petitioners being declared as owners in possession of the suit lands, thus has been claimed, from the learned Collector concerned.

3. As above stated, the said title suit is yet *subjudice* before the learned Collector concerned, but what brings grievance to the present petitioners, is an order Anneuxre P-54, which has been made by the learned Collector concerned, whereby a direction has been made for holding demarcation(s) of the petition lands.

4. For the reasons to be assigned hereinafter, the said direction, as carried in Annexure P-54, does not carry any virtue of any legality, as the said demarcation was but required to be made only when the plaintiffs, in the civil suit/judgment debtors in a petition cast under Section 7 of the Act, had made encroachments, upon the lands, owned, and, possessed by the Gram Panchayat concerned, and, which were but adjoining and abutting the lands of the present petitioners. If the said demarcation has been ordered in the petition (*supra*), and, if it has been relied upon, thereby the said demarcation, if validly made thus resulting in a valid demarcation report being drawn, by the Demarcating Officer concerned, thereby the order(s) of eviction, as have been concurrently made, thus resulting theirs becoming challenged before this Court, in writ petition (*supra*), rather may *prima facie* have some virtue of legality.

5. Be that as it may, since subsequent to the institution of the said petition cast under Section 7 of the Act, thus a title suit has been instituted by the judgment debtors concerned, before the learned Collector concerned. Therefore, irrespective of the factum of the maintainability or otherwise of the said title suit, the ordering of a fresh demarcation in respect of a suit filed by the petitioners, thus claiming a declaratory relief, in respect of the purported patti lands concerned, rather was grossly impermissible.

6. The reason becomes comprised in the factum, that the outcome of the title suit, rather is of the gravest importance. If the title suit is dismissed against the plaintiffs, thereupon, the said dismissal of the title suit, upon acquiring finality, and, conclusivity, thus from a decision being made by this Court, upon a writ petition instituted against the said adverse decision, being recorded, on the title suit by the Competent Statutory Authorities concerned, rather would acquire enforceability. However yet, the writ petition concerned, as may become directed against the said adverse decision(s) as may become made against the present petitioners, by the Competent Statutory Authorities, thus also may then require its becoming consolidated, and, also being heard alongwith the apposite CWP-8826-2004. The said stage is yet to arrive. In the event of this Court upholding the decision made by the Competent Statutory Authorities, whereby the extant title suit, becomes dismissed, thus the decision(s) as made against the present petitioners, on a petition cast under Section 7 of the Act, and, which has resulted in this Court, thus making the above directions in writ petition (supra), resultantly may in accordance with law, thereby rather wean this Court to then proceed to depending, upon valid demarcations being conducted of the disputed lands, to also uphold, the concurrently made verdicts of eviction, rather in respect of those lands, as enclosed in the said writ petition, which are but common to the instant petition also.

7. The learned Collector concerned, unmindful of the above fact, and, also unmindful of the imperative factum, that in a title suit, there is no necessity of demarcation being carried of the disputed lands, rather demarcation of the disputed lands, is required to be made only upon there being in the apposite lis rather a dispute in respect of contiguous estates or boundaries of the litigants concerned, thus has proceeded to make an illegal order of demarcation of the disputed lands, rather only on a title suit, as preferred by the present petitioners.

8. In the wake of the above, there is merit in the writ petition, and, the same is allowed, and, the impugned order Annexure P-54 is quashed, and, set aside. The learned Collector concerned, is directed to make an expeditious decision on the apposite title suit, but after hearing all affected persons concerned.

(SURESHWAR THAKUR)
JUDGE

29.05.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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