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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : May 03, 2023

GURMEJ SINGH AND ORS.

-Petitioners

V/S

JOINT DEVELOPMENT COMMISSIONER (IRD) & ORS

-Respondents

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

Present : Ms. G.S. Nagra, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab.

Mr. D.R. Singla, Advocate
for the respondents No.5 to 12.

SURESHWAR THAKUR, J.(ORAL)

1. The petitioners herein have suffered concurrent verdicts of eviction, in respect of the disputed land(s), thus from the statutory authorities below. The said verdicts are carried in Annexures P-2 to P-5, and, in Annexure P-11. Therefore, the petitioners through instituting the instant petition, have challenged the validity of the makings of the verdicts (supra).

2. At the outset, the recorded status in the revenue record(s), of the petitioners, over the disputed land(s), is that of "Gair Marusi" and which thus makes them to be holding only a limited status, as tenants over the petition land(s), thereby the said status was amenable to be terminated through an eviction petition being instituted against them. The said eviction petition did come to be filed, and, which has resulted in drawing of the impugned orders (supra). The further effect of the entry (supra), which has remained unchallenged,

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as no evidence contra to the said entry existing in the revenue record(s) has been adduced, for thereby dislodging the presumption of truth, attached to the said revenue entry, is that, resultantly the presumption of truth attached to the said recorded revenue entry, in the revenue record(s), inasmuch as, the petitioners being displayed therein, as “Gair Marusi”, thus acquires conclusivity. The further consequence thereof, is that, the petitioner cannot claim any right, title and interest, as owner of the petition land(s). In sequel, the concurrently made orders of eviction (supra) as suffered by the petitioners are thus required to be sustained.

3. The learned counsel for the petitioners had also focused, upon, the factum, that since in the column of ownership, in the revenue record(s), appertaining to the disputed land(s), it is designated as “Makbuja Malkan” land(s), whereby, since only the management and control of such land(s) vests in the Gram Panchayat concerned, but not ownership thereof. Consequently, he argues, that the petition which became cast under the provisions of Sections 4, 5 to 7 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act 1973, and, which has resulted in the impugned orders, thus was a misconstituted remedy, besides, the orders made thereon, are stained with the vice of jurisdictional incompetence.

4. The above argument is not acceptable to this Court, as, this Court in a judgment made in case titled “**Mithu Singh and anr. V/s Director, Rural Development and Panchayat Department, Punjab**”, to which **CWP-7438-2010**, is assigned, rather has rejected the above submission. Moreover, the rejection of the said submission, is also bedrocked upon a judgment made by this Court, in **Parkash Singh V/s Joint Development Commissioner, [(2014) 3 PLR 543]**.

5. Moreover, the remedy, if any, as recoursesable, thus to ensure a declaratory decree being made in favour of the petitioners, was through a civil

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suit, in the above regard, being filed in the civil court concerned. However, even on the said civil suit, as became filed, rather a decree against the petitioners has been pronounced, and, as such was thus pronounceable, in view of the unimpeached status of the petitioners over the petition land(s), inasmuch as, of “Gair Marusi”, who are thus not amenable for being declared as owners of the petition land(s).

6. In aftermath, this Court does not find any merit in the instant writ petition, and, the same is dismissed. The impugned orders are maintained and upheld.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

May 03, 2023
devinder

Whether speaking/reasoned. : Yes/No
Whether Reportable : Yes/No