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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision : April 12, 2023

DAVINDER KUMAR

-Petitioner

V/S

STATE OF PUNJAB AND OTHERS

-Respondents

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

Present : Mr. A.K. Sama, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. A.K. Khunger, Advocate
for the respondents No.6.

Ms. Raman Rekhi, Advocate
for the respondents No.24, 32, 42 and 64.

SURESHWAR THAKUR, J.(ORAL)

1. The District Development and Panchayat Officer concerned, while exercising jurisdiction on a petition cast under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, passed an eviction order against the encroachers concerned. The said eviction order was passed on 28.12.2018, upon Case No.17/DDPO.

2. The learned counsels appearing for the contesting litigants fairly stated at the bar, that the eviction order (supra), as becomes enclosed in Annexure P-1, has acquired a binding, and, a conclusive effect. Therefore, but obviously, the eviction order (supra) is amenable for being put to an efficacious, and, prompt execution.

3. Though the petitioner herein did not file the eviction petition

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before the Id. Collector concerned, yet, he has chosen to make a prayer in the instant petition, for a mandamus being passed upon the B.D.P.O. concerned, to forthwith draw an execution petition, for ensuring the efficacious execution of Annexure P-1. The above prayer appears to be made on the ground, that the Gram Panchayat concerned, i.e. the petitioner in the petition (supra), is conniving with the respondents in the said petition, and, is hence avoiding to institute an execution petition rather for enforcing Annexure P-1. If so, the present petitioner, who appears to be acting pro bono publico, can be permitted to institute the instant writ petition, as he seeks to enforce the binding, and, conclusive order, as carried in Annexure P-1.

4. Be that as it may, the present petitioner cannot yet institute an execution petition before the learned executing court, as he was never arrayed in the petition (supra) either in the array of petitioners, nor in the array of proforma respondents. But yet, in the larger interest of justice, since it is averred in the petition that the Gram Panchayat concerned, i.e. the petitioner in the petition (supra), in purported connivance with the encroachers, upon the Panchayat land, is refraining from filing the execution petition concerned. More so, despite the apposite binding, and, conclusive order being drawn on 28.12.2018, rather no execution petition being yet filed in promptest sequel to the order (supra). Therefore, it prima facie appears that there is a prima facie collusion, and, connivance inter se the Sarpanch of the Gram Panchayat concerned and the respondents in the petition (supra), but leading to no forthwith execution petition being instituted rather before the learned Collector concerned, for enforcing Annexure P-1.

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5. However, yet the above lack of diligence, or, purported connivance inter se the Sarpanch of the Gram Panchayat concerned and the respondents in the petition (supra), can be overcome through a direction being made upon the B.D.P.O. concerned, to forthwith institute an execution petition, before the learned Collector concerned, hence for seeking the promptest, fullest, and, efficacious execution of Annexure P-1. On the said petition being filed within a week from today, the judgment debtors concerned, and/or, if the petition land(s) are utilized for any public purpose, thereupon the Department concerned of the State of Punjab, may proceed to resist Annexure P-1, through their making objections against the execution of Annexure P-1, against the department concerned. Moreover, it is also open to the Department concerned of the Government of Punjab, if it has utilized any portion of the lands, belonging to the Gram Panchayat concerned, to ensure that the apposite sanction, in accordance with law, is granted to the said Department hence by the competent authority concerned.

6. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

April 12, 2023
devinder

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