

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
2023:PHHC:091302-DB

116

CWP-13917-2023

Date of Decision : 18.07.2023

RAVINDER SINGH AND OTHERS

.....Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present : Mr. T.P.S.Tung, Advocate
for the petitioners.

KULDEEP TIWARI. J.

1. The instant petition has been filed seeking quashing of order dated 7.3.2018 (Annexure P-5) vide which the Collector, Jalandhar, in a petition filed under Sections 3, 4 and 5 of the Punjab Public Premises Act, 1965 (hereinafter referred to as '**the Act of 1965**') and Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as '**the Act of 1961**') thus declaring the petitioners as unauthorized occupants, upon, the petition land(s) which is described in the revenue record as *Mushtarka Malkan* land. Moreover, the order dated 27.6.2023 (Annexure P-12), as, passed by the statutory appellate authority (respondent No.2) vide which 13 different appeals were decided by a common order, thus is also asked to be quashed and set aside.

2. Respondents No. 5 to 23 filed cases bearing Nos. PUN / JDC / EVP-001195 / 2018, PUN / JDC / EVP-001178/2018, PUN / JDC / EVP-

001192/2018, PUN / JDC / EVP-001197 / 2018, PUN / JDC / EVP-001180 / 2018, PUN / JDC / EVP-001163 / 2018, PUN / JDC / EVP-001167 / 2018, PUN / JDC / EVP-001194 / 2018, PUN / JDC / EVP-001193 / 2018, PUN / JDC / EVP-001169 / 2018, PUN / JDC / EVP-001172 / 2018, PUN / JDC / EVP-001198 / 2018, PUN / JDC / EVP-001176 / 2018, in the Court of Collector, Jalandhar for eviction of the petitioners from the petition land (s) claiming that they are unauthorized occupants, and, thus illegally possess the suit land(s) which rather belongs to the Gram Panchayat concerned. The respondents challenged the application for eviction and raised the issue of maintainability of the application itself. It is further pleaded that the respondents vide different sale-deeds drawn on different dates are bonafide purchaser(s) of the petition land(s) from its real owners. The learned Collector comes to the conclusion that the petitioners are unauthorized occupants upon the petition land(s) thus vide order dated 7.3.2018 they were directed for eviction and the petition land(s) were declared to vest in the Gram Panchayat concerned, and thereby they were declared to be meant to be under the management and control of the Gram Panchayat concerned.

3. However, all the aggrieved from the said common order, as made by the learned Collector concerned, on the petition cast under Sections 3, 4 and 5 of the Act of 1965 and Section 7 of the Act of 1961 (supra), preferred separate statutory appeals, before the Competent Appellate Authority. The learned Appellate Authority through drawing Annexure P-12, made a decision, only upon appeal No. PUN/JDC/EVPP/2018/001195, as became instituted before it, by one

Ravinder Singh. On the above appeal, an order of dismissal was made on 27.6.2023.

4. Though there is a complete discussion by the learned Appellate Authority, in respect of appeal No.PUN/JDC/EVPP/2018/001195. 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 made decisions on all statutory appeals thus merely made on the basis of the discussions, as, made in respect of appeal No.PUN/JDC/EVPP/2018/001195, as became instituted before it, by one Ravinder Singh, thereby concluded that the other appeals also which became separately instituted before it, and which became assigned separate appeal numbers, and, as arose from common decision (Annexure P-5), as made by the learned Collector concerned, are also purportedly governed by the facts and evidence, as, adduced in respect of appeal No.PUN/JDC/EVPP/2018/001195. Resultantly all the appeals were also dismissed by the learned Appellate Court.

5. 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.PUN/JDC/EVPP/2018/001195, the learned Appellate Court has made a common verdict of dismissal upon the other appeals. The issue which was raised by the present petitioner before the first Appellate Authority was not undisputedly addressed, rather the appeals were dismissed in a most purfunctory and cursory manner. The above exercising(s) of jurisdiction, by the learned Appellate Authority, in respect of appeals, is a completely insagacious exercise, besides this it is ridden with the vice of grossest non application of mind, and, is required to be undone, through this Court by making an order of remand, upon the, learned Appellate Authority concerned, to restore the appeal(s) to their original numbers, 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, as made by the learned Collector concerned, in petition(s) cast under Section 3, 4 and 5 of the Act of 1965 and Section 7 of the Act of 1961.

6. 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.

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

(SURESHWAR THAKUR)

(KULDEEP TIWARI)

JUDGE		JUDGE	
18.07.2023			
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Whether speaking/reasoned.		:	Yes/No
Whether Reportable.		:	Yes/No