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

(I)

CWP-15423-2017

Date of decision: 16.02.2023

TARSEM RAJ (DECEASED) THROUGH HIS LRs

...Petitioners

Versus

THE DIRECTOR RURAL DEVELOPMENT & PANCHAYAT, PUNJAB
PANCHAYAT BHAWAN AND ORS.

...Respondents

(II)

CWP-17432-2017

SHER SINGH (DECEASED) THROUGH LRs AND ORS.

...Petitioners

Versus

DIRECTOR RURAL DEVELOPMENT AND PANCHAYAT, PUNJAB
PANCHAYAT BHAWAN AND ORS.

...Respondents

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

Present: Mr. Suram Singh Rana, Advocate and
Mr. Arvind Kumar Sharma, Advocate
for the petitioners.

Ms. Monika Jalota, Sr. DAG, Punjab

Mr. V.K. Sandhir, Advocate for the Gram Panchayat.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioners herein, in the both the writ petitions, filed separate petitions under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act'), before the Collector concerned. The said petitions were respectively assigned case No. 25 of 2010, and, case No. 24 of 2010, case and they became instituted on 09.03.2010. The said separate petitions are embodied in Annexure P-3 in CWP-15423-2017, and, in Annexure P-4 in CWP-

2. The said petitions were decided through separate orders, respectively on 20.07.2011, orders whereof are embodied respectively in Annexure P-3 in CWP-15423-2017, and, in Annexure P-4 in CWP-17432-2017.

3. However, all the aggrieved from the said separate orders, as became respectively made by the learned Collector concerned, on both the separate petitions (supra), preferred separate statutory appeals, before the Competent Appellate Authority. The learned Appellate Authority through drawing Annexure P-6, as appended to the CWP-17432-2017, made a decision, upon appeal No.281 of 2012, as became instituted before it, by the Gram Panchayat concerned. The appeals were accepted through orders made on 18.11.2016.

4. Though there is a complete discussion by the learned Appellate Authority, in respect of appeal No. 281 of 2012. However, the learned Appellate Authority without referring to the facts of each of the separate appeals, and, also without referring to the evidence(s) adduced qua each of the separate appeals, but merely on the basis of the discussion, as, made in respect of appeal No.281 of 2012, as became instituted before it, by Gram Panchayat concerned, hence 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.281/2012. Resultantly all the appeals were also accepted 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 adduced 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.281/2012, the learned Appellate Court has made an alike verdict of acceptance upon the other appeals. The above exercising(s) of jurisdiction, by the learned Appellate Authority, in respect of appeals other than appeal No.281/2012, is a completely insagacious exercise, and/or, is exercised with a material irregularity, and, impropriety, besides 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 both the statutory appeals, i.e. No.281/2012, and No.282/2012, 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 separate petition(s) cast under Section 11 of 'the Act'.

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. Moreover, the CWP as arises from appeal No.281/2012 shall remain on the docket of this Court.

(SURESHWAR THAKUR)
JUDGE

16.02.2023

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(KULDEEP TIWARI)
JUDGE

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