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

RA-CW-233-2023 (O&M) IN
CWP-8609-2023

Date of decision:26.07.2023

AVTAR SINGH AND OTHERS

...Applicants

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Mr. Vikram Singh, Advocate for the applicants.

SURESHWAR THAKUR, J. (ORAL)

CM-10952-CWP-2023

Allowed as prayed for.

MAIN CASE

1. Notice on the review application.
2. Mr. Ankur Mittal, Addl. AG Haryana with Mr. Saurabh Mago, DAG, Haryana, waive service of notice on behalf of respondents No.1 to 4, and, Mr. S.M. Sharma, Advocate, waives service of notice on behalf of co-respondent No.5.
3. This Court through a decision made, on 26.05.2023, had after considering the subject matter, as enclosed in the writ petitions (CWP-11471-2023, and CWP-8609-2023), and, after hearing the learned counsels appearing for the contesting litigants, proceeded to quash the order drawn, on 17.05.2023, as became passed by the Commissioner concerned.

4. Moreover, for the purpose of putting to quietus the spate of litigations which erupted amongst the contesting litigants, this Court had also deemed it fit to render the hereinafter directions, upon the concerned.

“i) The BDPO concerned shall immediately under his observations get harvest the crop from the petition land(s) and deposit the sale proceed in a Nationalised Bank in the form of Fixed Deposit:

ii) The Asstt. Collector Ist Grade concerned, who is seized of the eviction petition filed by the Gram Panchayat shall decide the same positively, but preferably within a period of three months from today and thereafter also make decision with regard to entitlement of sale proceed:

iii) Since the private respondents have already lost the possession, therefore, liberty is given to the Panchayat to utilize the petition land(s) in accordance with the rules and procedure prescribed under the Haryana Village Common Lands (Regulation) Act, 1961 and;

iv) In case the private respondents succeed in the eviction proceeding and upon attaining conclusivity and finality of such lis, they will be entitled to seek restoration of possession by making an appropriate motion before the appropriate authority.”

5. Consequently, this Court in the operative part of the verdict (supra), had concluded, that CWP-8609-2023 filed by the private respondents challenging letters dated 11.04.2023, 12.04.2023, and 14.04.2023, as became passed by the Authorities concerned, who were earlier stated to be in the process of appointing a Duty Magistrate rather for the purpose of taking the actual physical possession of the disputed lands, so as to hand over thus physical possession thereof, to the Gram Panchayat concerned, did thereby become rendered infructuous. The said conclusion became founded, upon the premise, that in view of the discussion made in the second paragraph of page No.3 of the verdict (supra), and, also in the light of the discussion made in the succeeding

paragraphs, thus plainly revealing, that in respect of the disputed lands, the import of the order of *status-quo*, as became made by this Court, on 29.03.2023, in CWP-6840-2023, and, with the coinage “**that the parties shall maintain status-quo as of today**” in respect of the disputed lands, was but naturally, that in case physical possession of the lands, has been validly delivered to the Gram Panchayat concerned. Resultantly, thereby the purported encroachers, upon the petition lands, thus not being entitled to yet unsettle such validly assumed possession over the petition lands rather by the Gram Panchayat concerned.

6. The reason for this Court making the said discussion, in respect of the import of the above coinage, was that, the learned counsel for the purported encroachers concerned, did try to draw an unfair advantage, merely on a mis-construction of the said coinage, inasmuch as, thereby he proceeded to claim, but without any tangible evidence, that there was falsity in the said delivery, and, consequent assumption of valid possession rather by the Authority concerned, thus to the Gram Panchayat concerned.

7. In consequence, this Court had firmly concluded that thereby possession over the writ lands became validly delivered, and, also became validly assumed by the Gram Panchayat concerned, but prior to the making of the above *status-quo* order.

8. The aggrieved purported encroachers concerned, accessed the Hon’ble Apex Court through theirs instituting thus SLP(C) bearing No.12164/2023, and, on the said SLP, the Hon’ble Apex Court made the hereinafter extracted directions.

“After arguing for some time, learned senior counsel appearing for the petitioners sought permission to withdraw the special leave petition with liberty to seek a clarification of direction (iii) in the operative portion of the impugned order in the context of the liberty reserved in direction (iv) of

the said order. Submission of learned senior counsel is placed on record.”

9. A reading of the hereinabove extracted directions, as passed by the Hon’ble Apex Court on the SLP (supra), reveals that the Hon’ble Apex Court on the asking of the learned senior counsel for the petitioner thus had permitted withdrawal of the SLP (supra), but with liberty to seek a clarification of directions No.(iii), and, (iv), as carried in the verdict (supra), as made earlier before this Court. It is but evidently clear from a reading of the above extracted order, as made on the apposite SLP by the Hon’ble Apex Court, that thereby the aggrieved purported encroachers over the Panchayat land, rather remained unsuccessful, in making a challenge to the verdict (supra), as pronounced by this Court. Resultantly, thereupon they asked for withdrawal thereof, and, were permitted to withdraw the apposite SLP, with liberty being granted to the aggrieved, thus by the Hon’ble Apex Court, to seek a clarification in respect of directions No.(iii) and (iv) (supra), as carried in the verdict (supra). However, therein there is no pre-emptory mandate upon this Court, to as a matter of fact modify, rescind, or recall the said directions. In the absence of the said pre-emptory directions, being made to this Court, by the Hon’ble Apex Court, this Court does not deem it fit, and, appropriate to recall, rescind or modify directions No.(iii) and (iv), as carried in the verdict made by this Court.

10. The reason being that the said directions are in complete alignment, and, in harmony with this Court concluding, that the meaning ascribable to the coinage “*status-quo* as of today”, being that the status relating to the possession of the concerned, as existed on the said date, be maintained, and, when this Court on making a deep study of the evidence, and, material on record, thus concluded, that as a matter of fact there was valid delivery of possession, qua the disputed lands, to the Gram Panchayat concerned, by the Authority

concerned. Therefore, this Court does not deem it fit, and, appropriate to permit the learned counsel for the applicants, to seek any modification of conditions No.(iii) and (iv), as carried in the verdict (supra).

11. In the face of the above, this Court does not find any merit in the review application, and, the same is dismissed. However, in the larger interest of justice, in case through a public auction the writ lands have been released to the auction lessees concerned, thereupon the said auction of Panchayat lands, to the lessees rather shall be subject to the decision, as made on the petition cast under Section 7 of The Haryana Village Common Lands (Regulation) Act, 1961, which is subjudice before the learned Assistant Collector concerned.

(SURESHWAR THAKUR)
JUDGE

26.07.2023

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(KULDEEP TIWARI)
JUDGE

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