

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

210

Date of Decision : 10.04.2023

1. CWP-21419-2016

AVTAR SINGH

....Petitioner

VERSUS

JOINT DEVELOPMENT COMMISSIONER, PUNJAB & OTHERS.

.....Respondents

2. CWP-21420-2016

BHAJAN SINGH & OTHERS

....Petitioners

VERSUS

JOINT DEVELOPMENT COMMISSIONER, PUNJAB & OTHERS.

.....Respondents

3. CWP-21421-2016

SHER SINGH & OTHERS.

....Petitioners

VERSUS

JOINT DEVELOPMENT COMMISSIONER, PUNJAB & OTHERS.

.....Respondents

4. CWP-21422-2016

AMARJEET SINGH

....Petitioner

VERSUS

JOINT DEVELOPMENT COMMISSIONER, PUNJAB & OTHERS.

.....Respondents

5. CWP-21423-2016

GURMUKH SINGH & OTHERS.

....Petitioners

VERSUS

JOINT DEVELOPMENT COMMISSIONER, PUNJAB & OTHERS.

.....Respondents

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

Present : Mr. Navneet Singh, Advocate
for Mr. Bhag Singh, Advocate
for the petitioners in all the cases.

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. G.S.Attariwala, Senior Advocate assisted by
Mr. Saurabh Singla, Advocate and
Mr. Aditya Sharma, Advocate
for respondent No. 3 in all the cases.

SURESHWAR THAKUR, J. (Oral)

1. The petitioners herein, in the respective 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 decided through a common order on 12.06.2012, by the Collector concerned. The said order becomes appended as Annexure P-17 in all the afore writ petitions except in CWP-21423 of 2016, wherein, the said order is embodied in Annexure P-16.

2. The learned Collector concerned, through the drawings of the aforesaid Annexures, as appended to the respective writ petitions, rather made a decision, only upon File No. 256/VCL, as became instituted before him, by the petitioners concerned. Moreover, the decision made thereons, thus was also directed to govern the other petitions filed under the Act, by the petitioners concerned.

3. The petitioner(s) concerned, became aggrieved from the said order, as became made by the learned Collector concerned, on all the separate petitions (supra), thus preferred separate statutory appeals, before the Competent Appellate Authority. The learned Appellate Authority through drawing Annexure P-19, as appended to all the afore

writ petitions except CWP-21423 of 2016, wherein, the said order is embodied in Annexure P-18, rather made a decision, only upon appeal No. 172 of 2014, as became instituted before it, by the petitioner(s) concerned, appellants therein. Moreover, the decision made thereons, thus was also directed to govern the said separate statutory appeals. The apposite appeals' were dismissed through a common order made on 18.12.2014.

4. Though there is a complete discussion by the learned Collector concerned, and, the learned Appellate Authority, respectively qua the petition filed under the Act bearing File No. 256/VCL, and, qua appeal No. 172 of 2014. However, the learned Collector concerned, as well as the learned Appellate Authority without referring to the facts of each of the separate petitions, and, to the facts of respectively thereagainst reared statutory appeals, and, also without referring to the evidence(s) adduced qua each of the separate cases, but merely on the basis of the facts, and, evidence led in a petition filed under the Act, bearing File No. 256/VCL, and, thereafter qua such facts, and, evidence appearing on file of appeal No. 172 of 2014, as became instituted before them, by petitioners concerned, hence concluded that the other statutory petitions and statutory appeals also, which rather became separately instituted before them, and which became assigned separate numbers, are also purportedly governed by the facts and evidence, as, being adduced in respect of the petition filed under the Act bearing File No. 256/VCL, and, by appeal No. 172 of 2014. Resultantly all the petitions as well as the appeals were also decided through a common

order, respectively by the learned Collector concerned, and, the learned Appellate Court concerned.

5. Be that as it may, both the statutory authorities below, were required to exercise valid jurisdiction upon each of the separate petitions, and, appeals, and, that would have occurred, only when the facts of each of the separate petitions and 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 petition filed under the Act bearing File No. 256/VCL, and, appeal No. 172 of 2014, both the authorities below have made alike verdict(s) upon the other petitions/appeals. The above exercising(s) of jurisdiction, by both the authorities below, in respect of petitions, other than the petition filed under the Act bearing File No. 256/VCL, and, in respect of the appeals other than appeal No. 172 of 2014, is a completely insagacious exercise, and/or, is exercised with a material irregularity, and, gross impropriety, besides is ridden with the vice of grossest non application of mind, and, is required to be undone, through this Court, setting aside the orders, passed by the learned Collector Concerned, and, by the learned Appellate Authority concerned, and, thereafter making an order of remand, upon the, learned Collector concerned, to restore to their original numbers all the petitions (supra) cast under Section 11 of 'the Act', except petition file No. 256/VCL, and, appeal No. 172 of 2014, and, to thereafter in accordance with law, pass separate decision(s)

upon each of the restored petitions (supra), as became preferred before it.

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)
JUDGE

10.04.2023
kavneet singh

(KULDEEP TIWARI)
JUDGE

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