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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1)

CWP-1616-2018

Date of decision:20.04.2023

CHARAN SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ORS.

...Respondents

(2)

CWP-24521-2022

KHUSHAL SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ORS.

...Respondents

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

Present: Mr. Gurmeet Singh Saini, Advocate
for the petitioner (in CWP-1616-2018).

Mr. Kuldip Singh, Advocate
for the petitioner (in CWP-24521-2022)

Mr. Maninder Singh, DAG, Punjab

Mr. Yogesh Aneja, Advocate
for respondents No.7 to 9, 12, 13, 16, 17, 23 to 25, 29 & 30.

SURESHWAR THAKUR, J. (ORAL)

1. Status report by way of affidavit to the petition has been filed by the State, in the Court today, which is taken on record.
2. Gram Panchayat Village Guddar Bhaini situated at Ghurka through Uttar Singh, Panch, of Gram Panchayat Guddar Bhaini, Tehsil and District Fazilka, instituted case No.7/DDPO, and, No.3/DDPO, on 13.01.2015, before the

learned Collector concerned, wherein became arrayed certain persons, who are alleged to make encroachments, upon *Gair Mumkin* rasta, as such their eviction therefrom was claimed in the petition (supra). Through a decision(s) made on 22.03.2016, upon case (supra), the learned Collector concerned, made an affirmative verdict thereons.

3. It is firmly stated, at the bar by the learned State counsel that they judgment debtors, in the said petition have not challenged the above verdict, thus, the said verdict acquires conclusive, and, binding effect. The present petitioners though were not a party in the apposite lis nor could they be an able party in the said lis, as they lacked an able empowerment under Section 7 of the The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”), to institute the said petition, yet the present petitioners have chosen to institute, the instant petition before this Court rather for seeking the execution of the orders (supra), as made by the learned Collector concerned. Since they were not capacitated to institute the said petition, necessarily hence they were also not having any capacity or *locus standi* to ask for its execution. Therefore, the making of the instant petition before this Court, by others than by the decree holder-Gram Panchayat concerned (supra), is an appropriate motion, and, is required to be not accepted.

4. Be that as it may, since from the reply on affidavit furnished, to the petition on behalf of the BDPO Fazilka, it is borne out that, the said encroachments, at the instance of the judgment debtors concerned, have been removed, and, that a road has been constructed on the petition lands.

5. Therefore, only in the face of the above, despite the writ petitions being a completely mis-recoursed by the instant petitioners, but is, for the above reasons is closed, given the grievance raised therein becoming mitigated.

6. Both the petitions are disposed of accordingly.

7. No order as to costs.
8. A photocopy of this order be placed on the file of other connected case.

(SURESHWAR THAKUR)
JUDGE

20.04.2023

(KULDEEP TIWARI)
JUDGE

Ithlesh

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