

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

201

CWP-18386-2017

Date of Decision : **January 30, 2023**

JAGTAR SINGH AND ANOTHER

.....Petitioners

VERSUS

GRAM PANCHAYAT, VILLAGE JAGIRPUR AND OTHERS

.....Respondents

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

Present: Mr. Sunil Chadha, Sr. Advocate assisted by
Mr. Tara Dutt, Advocate and Ms. Swati Verma, Advocate
for the petitioners.
Ms. Monika Jalota, Sr. DAG, Punjab.
Mr. J.S.Bhandohol, Advocate for respondent No.1.

Ms. Navdeep Kaur, Advocate for
Ms. Ritu Punj, Advocate
for respondents No. 6, 7(i), 8, 9(ii), 10(iii), 12, 13(i).
Mr. Vishwajit Bedi, Advocate for respondents No. 6 to 13.

SURESHWAR THAKUR, J.(ORAL)

1. The Gram Panchayat, village Jagirpur, Tehsil and District Ludhiana, instituted a petition under Section under Section 11, of the Punjab Village Common Land (Regulation) Act, 1961 (hereinafter in short called '**the Act**') before the Collector concerned. In the said petition on the basis of a revenue entry existing in the revenue records, displaying the suit land, as Shamlat deh, it was claimed, that the private respondents therein, are in unauthorized possession of the suit land, and, also that such possession thereon, is purportedly assumed on the basis of a fraudulently executed sale-deed, in their favour by the vendor concerned. Moreover, it was also contended that the mutations, if any, as became attested in favour of the vendees concerned, in respect of the suit land also became illegally sanctioned or became unlawfully attested.

2. The learned Collector concerned, on the apposite petition bearing case No. DDP3 (11)Ludhiana-2-142, made an affirmative verdict on 9.3.2017. At this stage, it is fairly submitted at the bar by the learned counsel appearing for the petitioners, that the latter were proceeded against *ex parte* by the learned Collector concerned. However, yet the petitioners herein challenged, the above affirmative decision, as made on the Gram Panchayat's application (Supra), through theirs making an appeal before the learned Appellate Court concerned. A perusal of the grounds of appeal, as became constituted in the apposite appeal, reveals that one Malkit Kaur, had executed an agreement to sell with the petitioners herein, in respect of the suit lands, but yet she did not execute then a registered deed of conveyance in favour of the vendees concerned. Therefore, the vendees concerned who are the petitioners in the instant writ petition were led to institute a suit for specific performance of the agreement to sell against hence one Malkit Kaur. The said suit is revealed in the grounds of appeal to become decreed by the Civil Court concerned, and, subsequently the said decree is also unfolded therein to acquire a binding and conclusive effect. Moreover, it is revealed, on a reading of the grounds of appeal, that after settling and resting of controversies which emerged inter-se, the vendee of the present petitioners, and, the other landowners concerned, hence mutation in respect of the sale deeds concerned also became entered/attested rather by the competent Revenue Officer concerned.

3. Though, in the face of the above and also in the face of the revenue records becoming updated, and theirs revealing that the writ

petitioners were entered in the revenue records, as owners in possession to the extent of the lawful purchases, as made by them from one Malkit Kaur, who became allotted the suit land, through a valid allotment order as made by the custodian concerned, yet the Gram Panchayat concerned, took to reopen the earlier conclusive and binding verdicts, rather firmly and effectively clinching the validity of the allotment, as made by the custodian concerned, in favour of Malkit Kaur, the vendor of the present petitioners. Though necessarily, the institution of any subsequent suit hence casting a challenge to such allotments, and, also to the consequent thereto sales of the lands concerned, as made by one Malkit Kaur, to the petitioners herein, rather became completely barred by the principle of constructive res-judicata. Nonetheless, it is enigmatic that the Gram Panchayat concerned, yet proceeded to despite, it being estopped by the principle of constructive res-judicata, rather reopen the earlier binding, and, conclusive verdict.

4. Be that as it may, since the above alluded grounds of appeal, as became raised in the statutory appeal, as became preferred by the petitioners, before the Appellate Authority concerned, when did evidently cover both the above narrated facts, besides the apt applicable thereons principle of res-judicata. However, though the learned Appellate Court concerned, was required to address itself to the validity of the above ground, and, also through a speaking decision was to either accept or reject the same but, the Appellate Court concerned has miserably failed to apply its mind, to the above relevant facts nor has applied mind to the applicability thereons of the principle of constructive res-judicata,

besides has in a most slipshod and arbitrary manner rejected appeal bearing No. 50 of 2017 as became preferred, before it, by the aggrieved writ petitioners.

5. Necessarily the above slipshod manner of makings of a decision by the learned Appellate Court concerned, is but required to be undone. Therefore, this Court is led to, after quashing the impugned verdict, make an order of remand upon the learned Appellate Court concerned, to after hearing all concerned, to make a fresh speaking decision, upon, the statutory appeal, covering all the grounds relating to the plaintiff's suit being barred by the applicable thereon principle of constructive res-judicata. The above decision be ensured to be positively made within three months from today. The above order of remand will also be limited only to the acquisition of lands by the petitioners herein, through a sale-deed being made in their favour by their vendor one Malkit Kaur.

6. The parties are directed to made their respective appearance on 20.2.2023.

7. Disposed of in the above terms.

8. All the pending applications stand disposed of.

(SURESHWAR THAKUR)
JUDGE

January 30, 2023
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(KULDEEP TIWARI)
JUDGE

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