

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

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CWP-16899-2018

Date of Decision : February 14, 2023

VAKIL SINGH

-Petitioner

V/S

STATE OF PUNJAB AND ORS.

-Respondents

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

Present : Mr. Onkar Rai, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. A.P.Kaushal, Advocate
for the respondent No.3.

SURESHWAR THAKUR, J.(ORAL)

1. The learned counsel appearing for the respondent No.3- Gram Panchayat submits that, the petitioner herein had instituted against the Gram Panchayat of Badlian, Tehsil Mukerian, District Hoshiarpur, a petition under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the 'Act of 1961' for short), claiming therein that he has a lawful title over the land(s), which are the very same land(s), as are embodied in the instant writ petition. The learned counsel for the respondent No.-3 Gram Panchayat further submits, that the learned Collector concerned has made a verdict of dismissal upon the above petition. Therefore, if the aggrieved therefrom, has not instituted any appeal thereagainst before the competent appellate authority concerned, thereupon, the order of dismissal, as made upon the petition cast under Section 11 of the Act of 1961, by the learned Collector concerned, assumes finality and conclusivity, and, is required to be executed through the learned Collector

concerned, hence drawing, and, enforcing the warrants of possession in respect of the petition land(s).

2. Be that as it may, it is also stated at the bar by the learned State counsel as well as by the learned counsel appearing for the Gram Panchayat concerned that, even when the above petition cast under Section 11 of the Act of 1961, was subjudice before the learned Collector concerned, yet a petition under Section 7 of the Act of 1961, became instituted before the learned Collector concerned. The above petition, when, as above stated, was instituted subsequent to the petition, as cast under Section 11 of the Act of 1961, or the same being sub judice, before the learned Collector concerned, wherein the Gram Panchayat became arrayed as a respondent, thus the apposite subsequent motion is, prima facie, hit by the bar of res subjudice, as becomes encapsulated in Section 10 of the CPC. Therefore, the said petition was obviously not maintainable, and, even if it has been adjourned sine die, yet, no further progress is required to be made on the said petition by the learned Collector concerned.

3. The reason for making the above conclusion ensues from the fact that, assumingly if the order of dismissal, as made by the learned Collector concerned, upon the petition cast under Section 11 by the petitioner herein, before the learned Collector concerned, has not assumed finality and conclusivity, thereupon, if yet, the aggrieved therefrom choose to file an appeal thereagainst before the appellate authority concerned, which may also stay the operation of the apposite verdict of dismissal. Thus, only in the above event, the verdict of dismissal, as made on the Section 11 petition, may not acquire any conclusivity. However, in case, the said verdict has acquired finality, thereupon, it is yet open for the Gram

Panchayat concerned to enforce the said verdict of dismissal, as made against the petitioner in the Section 11 petition, by the learned Collector concerned, through its instituting an execution petition, under the relevant statutory provisions, before the learned Collector concerned, who shall, on receiving such a motion, hence lawfully decide the same, but, after hearing all affected concerned.

4. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

February 14, 2023
devinder

(KULDEEP TIWARI)
JUDGE

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