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

CWP-18042-2018

Date of decision:29.03.2023

MAM CHAND AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Rajender Singh Malik, Advocate
for the petitioners.

Mr. Pradeep Parkash Chahar, DAG, Haryana

Mr. Arvinder Arora, Advocate
for respondent No.4.

Mr. Satbir Rathore, Advocate
for respondents No.5, 6, 8 and 9.

SURESHWAR THAKUR, J. (ORAL)

1. The respondents No.5 to 10 are alleged to have felled 14399 trees. All the said felled trees were not existing on the land owned, and, possessed by the petitioners, but are alleged in the petition to exist on lands rather owned, and, possessed by the Panchayat concerned. Therefore, a mandamus is asked to be made, upon the official respondents concerned, to draw appropriate action in accordance with law against the above stated respondents.

2. Annexures P-11, P-12, and, P-13 also appear on the records of the petition. A reading of the above annexures suggests, action is proposed to be drawn against the then Sarpanch of the Gram Panchayat concerned, for his making dereliction in his performing the duties, as, became enjoined, upon him,

especially, as the custodian of the Shamlat Deh land, whereons, trees existed, and, became allegedly felled by co-respondents No.5 to 10. The said proposal is apt, as, the errant, is but required to be ably assisting the authorities concerned, in ensuring that a free and independent probe is made against the errants concerned.

3. Be that as it may, since in the reply furnished by the respondents-State, there is a mention that the said Sarpanch, has instituted a civil suit, before the Court of the learned Civil Court, Naraingarh, whereby, he has challenged Annexures P-11, and P-12, and, also when there is a stay against the further action takings by the concerned, upon Annexure P-11, and, P-12.

4. Therefore, in the wake of the above, irrespective of the purported impermissibility of the institution of said civil suit, before the learned Civil Judge concerned, whereons, issues in respect of the above lack of jurisdictional competence, hence may become struck, and, also may become decided in accordance with law, thus at this stage, this Court does not deem it fit and appropriate to make the asked for mandamus, upon, the respondents concerned.

5. Therefore, at this stage, in view of the above, the instant writ petition is not maintainable, and, is disposed of as such, but leaving liberty to the Gram Panchayat concerned, to contest the civil suit, on all available grounds, inclusive of the one relating to the impermissibility of the Sarpanch concerned, instituting a civil suit, before the learned Civil Court concerned, on the ground but rested, on anvil qua either in respect Shamlat Deh land or in respect of action being proposed under the Haryana Panchayati Raj Act, rather a suit for permanent prohibition injunction, hence restraining Gram Panchayat concerned, to draw appropriate action against the Sarpanch of the Panchayat concerned, hence is unamenable for being instituted.

6. Disposed of accordingly.

7. It is further clarified that the above made order shall not be taken to be any expression hence restraining the respondents concerned, to proceed to make demarcation of the disputed lands, but from the records available with the Revenue/Forest Department concerned, engaged in plantation work on the disputed lands, and/or, to draw lawful action against the errants concerned.

(SURESHWAR THAKUR)
JUDGE

29.03.2023

Ithlesh

(VIKRAM AGGARWAL)
JUDGE

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