

**201 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

**CWP-20788-2017 (O & M)
Date of Decision : 24.01.2023**

TARSEM SINGH

.....Petitioner

Versus

DIRECTOR RURAL AND DEVELOPMENT PANCHAYAT,
PUNJAB AND ORS.

....Respondents

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

Present : Mr. G.S.Nagra, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab.

Mr. Kashmir Singh, Advocate
for respondent No. 3- Gram Panchayat.

Ms. Shubreet Kaur, Advocate
for the applicants-respondents No. 4 to 7
in CM-18116-2019.

SURESHWAR THAKUR, J. (Oral)

CM-18116-2019 in CWP-20788-2017

1. Since for an adjudication of the instant writ petition, the impleadment of the applicants, as respondents No. 4 to 7, is imperative. Therefore, after allowing the asked for impleadment, the instant application is allowed and disposed of.

3. The amended memo of parties, appended with the application is taken on record. The Registry of this Court is directed to tag the same at an appropriate place.

4. No notice is required to be served upon the newly added respondents, as they stand represented through their counsel Ms.

Shubreet Kaur, Advocate.

CWP-20788-2017 (O & M)

1. The Gram Panchayat, Village Naushehra Pannuan, Tehsil and District Tarn Taran, did in pursuance to the entries made in the jamabandi appertaining to the suit khasra numbers, proceed to institute a petition under Section 7 of the Punjab Village Common Land (Regulation) Act, 1961 against the respondent therein, the petitioner herein.

2. In the above petition, the eviction of the petitioner herein was asked to be made from the petition lands. A reading of Annexure P-1, annexure whereof, is accepted by all the appearing counsels, to be the jamabandi appertaining to the suit khasra numbers, does vividly unravel, that the khasra number assigned to the disputed land is khasra no. 209 and, that it occurs within khatauni no. 604.

3. Initially, the learned Collector concerned, allowed the above eviction petition, and also in an appeal becoming reared thereagainst, the Appellate Authority concerned made a concurrent thereto verdict. It is the above concurrently made verdicts by both the authorities below, that drives the petitioner, to constitute thereagainst, the instant petition before this Court.

4. The learned counsel for the petitioner, has strived to seek annulments of the above made concurrent orders against him. The above effort is made dependent upon by an echoing occurring at page no. 62 of the paper book. The said echoing underscores the factum that in khasra no. 209 measuring 191 kanal-6 marlas, rather existing the *abadi* of the *abadi* owners concerned. A further reading of page no. 62,

discloses that the *panchayat deh*, is not, the owner of the said abadi nor it has any concern in respect of the said khasra number.

5. It is in view of the above echoings, as occur at, page 62 of the paper book, that the learned counsel for the petitioners submits, that the concurrently made orders against the writ petitioner, are infirm, and they deserve to be quashed and set aside.

6. The above made submission cannot straightway, be assigned any credence, as the appropriate authority to seek evidence, in respect of the truth carried therein, is, the Court of the learned Collector concerned, and, not this Court. Necessarily so, as even though a presumption of truth may be attachable to the echoings (*supra*), yet unless an opportunity to contest the validity of truth thereof, rather becomes assigned to the opponents concerned, thereupon, it may not be permissible for this Court, to, in the instant writ petition, hence summarily proceed to assign any credence to the above echoings, as are carried in the above referred page. Therefore, only when the above document becomes lawfully tendered into evidence besides becomes lawfully proven, but rather only before the Collector concerned, thereupon, only credence may be assigned thereto. Therefore, after quashing the impugned orders, this Court deems it fit to remand the *lis* to the learned Collector concerned. The learned Remandee Court, after receiving the *lis* on remand, may 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. Since the learned counsel for respondents No. 4 to 7 submits, that the democratically elected Sarpanch of the Gram

Panchayat concerned, is also an alleged encroacher upon the suit lands, therefore, the Sarpanch of the Gram Panchayat concerned, may not be having a befitting leverage to pursue the *lis*, which has been remanded to the Remandee Court, as she submits that he has an apparent/visible conflict of interest with the subject matter of the remanded *lis*. To mitigate the above pleaded agony, the Block Development Panchayat Officer concerned, is directed to ensure, that the panchayat concerned, passes a fresh resolution authorizing the substitution of the Sarpanch of the Gram Panchayat concerned, by some other *panch*, in the array of the petitioners of the remanded *lis*.

8. The above be positively done within two weeks, and, thereafter, an application qua the above substitution, shall be made before the Collector concerned, and, also lawful orders shall be expeditiously made thereons.

9. Disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

24.01.2023

kavneet singh

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