

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

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Date of Decision : 08.02.2023
1. CWP-19718-2018

KRISHAN KUMARPetitioner

VERSUS

STATE OF PUNJAB AND ORS.Respondents
2. CWP-16201-2017

BALKAR SINGH AND ORS.Petitioners

VERSUS

STATE OF PUNJAB AND ORS.Respondents

3. CWP-15421-2017

DAULAT RAM & ORS.Petitioners

VERSUS

DIRECTOR RURAL DEVELOPEMENT AND PANCHAYAT,
PUNJAB & ORS.Respondents

4. CWP-15422-2017

SATYA DEVIPetitioner

VERSUS

DIRECTOR RURAL DEVELOPEMENT AND PANCHAYAT,
PUNJAB & ORS.Respondents

5. CWP-17433-2017

SHIV DEVI AND ORS.Petitioners

VERSUS

DIRECTOR RURAL DEVELOPMENT AND PANCHAYAT,
PUNJAB, AND ORS.Respondents

6. CWP-17434-2017

GULZAR SINGH AND ORS.Petitioners

VERSUS

DIRECTOR, RURAL DEVELOPMENT AND PANCHAYAT,
PUNJAB AND ORS.Respondents

7. CWP-17435-2017

SANTOKH SINGH AND ORS.

....Petitioners

VERSUS

DIRECTOR, RURAL DEVELOPMENT AND PANCHAYAT,
PUNJAB AND ORS.

.....Respondents

8. CWP-17436-2017

SUDARSHAN SINGH AND ORS.

....Petitioners

VERSUS

DIRECTOR, RURAL DEVELOPMENT AND PANCHAYAT,
PUNJAB AND ORS

.....Respondents

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

Present : Mr. Suram Singh Rana, Advocate and
Mr. Arvind Kumar Sharma, Advocate
for the petitioner(s) in CWP-15421-2017,
CWP-15422-2017, CWP-17433-2017, CWP-17434-2017
CWP-17435-2017 and CWP-17436-2017.

Ms. Deepshikha Arora, Advocate
for Mr. Rajiv Kataria, Advocate
for the petitioners in CWP-15421-2017.

Mr. Parminder Singh Kanwar, Advocate
for the petitioner(s) in CWP-19718-2018 and
CWP-16201-2017.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. V.K.Sandhir, Advocate
for the Gram Panchayat.

SURESHWAR THAKUR, J. (Oral)

1. The petitioners herein, in the respective writ petitions, filed separate petitions under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act'), before the Collector concerned. The said petitions were respectively assigned case No. 16 of

2011, case No. 26 of 2010, case instituted on 11.06.2009, as embodied in Annexure P-4 in CWP-15422-2017, case no. 87 of 2009, case no. 83 of 2009, case no.27 of 2010 and case no. 85 of 2009.

2. The said petitions were decided through separate orders, respectively on 26.08.2014, as embodied in Annexure P-2 in CWP-19718-2018 and in CWP-16201-2017, on 20.07.2011, as embodied in Annexure P-4 in CWP-15421-2017, on 20.03.2011, as embodied in Annexure P-4 in CWP-15422-2017, on 19.04.2011, as embodied in Annexure P-4 in CWP-17433-2017, on 03.05.2011, as embodied in Annexure P-4 in CWP-17434-2017, on 20.07.2011, as embodied in Annexure P-3 in CWP-17435-2017, and, on 03.05.2011 as embodied in Annexure P-4 in CWP-17436-2017.

3. However, all the aggrieved from the said separate orders, as became respectively made by the learned Collector concerned, on each of the separate petitions (supra), preferred separate statutory appeals, before the Competent Appellate Authority. The learned Appellate Authority through drawing Annexure P-4, as appended to the CWP-19718-2018, made a decision, upon appeal No.341 of 2014, as became instituted before it, by one Nirmala Devi. On the above appeal, an order of dismissal was made on 18.11.2016.

4. Though there is a complete discussion by the learned Appellate Authority, in respect of appeal No. 341 of 2014. However, the learned Appellate Authority without referring to the facts of each of the separate appeals, and, also without referring to the evidence(s) qua each of the separate appeals, but merely on the basis of the discussion, as, made in respect of appeal No.341 of 2014, as became instituted

before it, by one Nirmala Devi, concluded that the other appeals also

which became separately instituted before it, and which became assigned separate appeal numbers, and, as arose from separate decision(s), as made by the learned Collector concerned, are also purportedly governed by the facts and evidence, as, adduced in respect of appeal no.341/2014. Resultantly all the appeals were also dismissed by the learned Appellate Court.

5. Be that as it may, the learned Appellate Court was required to exercise valid jurisdiction upon each of the separate appeals, and, that could have occurred, only when the facts of each of the separate appeals were discussed, and, also when the evidence in respect thereof, also became circumspectly deliberated upon, besides became incisively evaluated. However, the above has not happened. Contrarily, and, merely on the basis of the facts and evidence adduced in respect of appeal No.341/2014, the learned Appellate Court has made an alike verdict of dismissal upon the other appeals. The above exercising(s) of jurisdiction, by the learned Appellate Authority, in respect of appeals other than appeal No.341/2014, is a completely insagacious exercise, besides it is ridden with the vice of grossest non application of mind, and, is required to be undone, through this Court making an order of remand, upon the, learned Appellate Authority concerned, to restore to their original numbers each of the statutory appeals, except appeal No. 341/2014, and, to thereafter in accordance with law, pass separate decision(s) upon each of the restored statutory appeals, as became preferred before it, by the aggrieved from the initial order(s), as made by the learned Collector concerned, in petition(s) cast under Section 11 of 'the Act'.

remand, shall 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. Disposed of alongwith all pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

08.02.2023

kavneet singh

(KULDEEP TIWARI)
JUDGE

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