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

CWP-25622-2019

Date of decision:12.04.2023

ARJAN SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Kuljit Singh Bal, Advocate for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. Vijay Kumar Chaudhary, Advocate for respondent No.5.

SURESHWAR THAKUR, J. (ORAL)

1. Dalip Singh, Amrik Singh and Tek Singh sons of Dayal Singh, residents of village Daoke, Tehsil and District Amritsar instituted, against the Gram Panchayat village Daoke, Tehsil and District Amritsar, case No.26, before the learned Collector concerned. The said case was instituted under Section 11 of the The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”). Therein the petitioners claimed that they be declared as lawful owners of the petition lands, as the petition land(s) is denoted as patti land, and, the petitioners are the pattedars of the petition lands. The learned Collector concerned, as revealed by Annexure P-1 made an order thereon, on 10.01.2003, whereby the petitioners’ claim was accepted, and, the petition lands were directed to re-vest in the Shamlat Patti Taraf Adlaki.

2. At the outset though the petitioner herein was not a party to the *lis* but for hereafter recorded reasons not only the instant petition is well instituted but also requires its becoming allowed.

3. However, the aggrieved therefrom Gram Panchayat Daoke, subsequently instituted an application before the learned Collector concerned, whereby it prayed that the *ex-parte* order drawn by the learned Collector concerned, and, as enclosed in Annexure P-1 be quashed, and, set aside. On the said application the learned Collector concerned, appears to have not made an order for setting aside the apposite order, whereby he had directed that the Gram Panchayat concerned, be proceeded against *ex-parte*, rather has proceeded to enter upon the merits of the case, which became earlier decided by him in favour of the petitioners therein(s).

4. In the above manner, of the learned Collector concerned, making a fresh order (Annexure P-5) rather on merits on the apposite *lis*, despite his earlier accepting the petitioners' petition, cast under Section 11 of the Act, rather through an order enclosed in Annexure P-1, and, that too, without his not prior thereto, simpliciter setting aside, the order whereby, he had directed that the Gram Panchayat concerned, be proceeded against *ex-parte*, thus makes the said order to become obviously ridden, with a vice of a gross material impropriety, as well, as with the vice of a gross illegality. The reason becomes comprised in the factum, that though, the learned Collector concerned, could after hearing the affected party, hence make a decision other than the one which was earlier made by him, and, as becomes enclosed in Annexure P-1, but the said remaking of a fresh decision on the *lis*, would be valid, only when prior thereto, he had made a lawful decision on the application, as, made by the Gram Panchayat concerned, whereby, it had simpliciter asked for the setting aside of the apposite order, whereby, the Gram Panchayat was directed to be proceeded against *ex-parte*.

5. However, at this stage, the learned State counsel yet argues, that since the applicants despite valid service, on the application for setting aside the apposite *ex-parte* order, rather being caused, upon, them, yet when they did not

cause their appearance before the learned Collector concerned, on the date fixed. Thus, the drawing of the impugned order is valid. However, if so, the *ex-parte* allowing of the relevant application, though was valid but yet thereafter required qua service being ensured to be validly caused upon the non-applicants, preeminently on the basic petition. Nonetheless, without ensuring the imperative causings of valid service upon the non-applicants, rather also on the basic petition, yet the learned Collector concerned, proceed to yet draw the impugned order. Resultantly, the non-applicants became condemned unheard, on the basic petition, thereupon the said order is required to be set aside.

6. Be that as it may, it appears that even during the pendency of the said application, the present petitioner who claims himself, to be a *bona fide* purchaser for value without notice of imperfection of title of his vendor(s) concerned, qua the suit property, rather had moved an application for his impleadment in the main *lis*. However, the said application was dismissed, through an order enclosed in Annexure P-5, order thereof became upheld by the Appellate Authroity, through the drawing of an order enclosed in Annexure P-6. Therefore, the petitioner who is not the contestant in the basic *lis*, and, who however asked for his impleadment in the array of co-respondents, but on the above premise, does become aggrieved from the concurrently made dismissal order(s), by the Statutory Authorities below, rather on the apposite application for his impleadment in the basic *lis*. Thus, he does has a valid ground for making an agitation against the impugned orders. More so, even if assumingly, the impugned orders drawn against his vendors are *prima-facie* valid, yet unless an apposite adequate opportunity was granted to the petitioner herein, who is the purchaser of the petition property, from the petitioners in the Section 11 petition, thereupon alone the petitioner's claim for title to the *lis*, as becomes rested on the statutory principle engrafted in Section 41 of the Transfer of Properties Act,

1882, thus rather would not become untenably completely curtailed, as well as would not become untenably snatched.

7. For obviating the above ill consequence, this Court deems it fit, and, appropriate to quash the impugned orders. Consequently, the impugned orders are quashed, and, set aside. The learned Collector concerned, is directed to restore the petition to its original number, and, to make a fresh decision in accordance with law, on the application for impleadment, as, moved before him by the petitioner herein. The said decision be made only after hearing all affected concerned, and, be done within three months from today.

8. Subsequently after his making the lawful impleadment of the petitioner in the basic *lis*, he shall call for the written statement, from the petitioner herein, whereafter he shall strike the relevant issue, and, subsequently shall permit adduction of evidence therein. Moreover, he shall thereafter draw a fresh lawful decision on the basic *lis* but positively within six months from today.

9. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

12.04.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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