

**In the High Court of Punjab and Haryana at Chandigarh**

**CWP No. 9751 of 2014 (O&M)**

**Date of Decision: 10.5.2023**

Chuhar Singh

.....Petitioner

Versus

The Director Panchayats, Punjab and others

.....Respondents

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

Present: Mr. Som Nath Saini, Advocate  
for the petitioner.

Mr. Athar Ahmed, DAG, Punjab.

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

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**SURESHWAR THAKUR, J. (ORAL)**

1. The present petitioner, on becoming aggrieved from the drawing of Annexure P-17, by the competent appellate authority concerned, whereby his statutory appeal became dismissed, thus has raised his grievance thereagainst through his instituting the instant writ petition before this Court.

2. Initially, the learned Collector concerned, through the drawing of Annexure P-5, had declined to the petitioner herein, (the plaintiff in the apposite civil suit), the claimed therein relief for his being declared, as owner in possession of the suit land.

3. Therefore, the petitioner received concurrent verdicts of dismissal, upon his civil suit, respectively by the learned Collector concerned, and, thereafter also from the learned competent appellate authority concerned.

The said decisions are respectively enclosed in Annexure P-5 and in Annexure P-17.

4. The basis of the petitioner's claim for a declaratory decree becoming pronounced in his favour, became hinged, upon the factum, that the predecessor-in-interest of the petitioner, was the recipient of a decree of possession, as, made by the Judicial Committee of Patiala and East Punjab States Union at Patiala, and, to which Annexure P-1, is assigned. The petitioner had claimed that since the said decree was drawn prior to 26.1.1950, thus when in pursuance to the said decree, the predecessor-in-interest of the petitioner also entered, upon the possession over the suit land, resultantly, he claimed, that such assumption, by the predecessor-in-interest of the petitioner, over the petition land, thus saved the petition land from becoming vested in the shamlat deh.

5. A perusal of Annexure P-1, does prima facie reveals, that it was a conditional decree. Therefore, only, upon the condition precedent for the said decree becoming completely enforced or becoming fully executed, thus the said decree would acquire legal force. The said condition became comprised in the plaintiff therein, who is the predecessor-in-interest of the present petitioner, depositing a sum of Rs. 3,000/-, if not already deposited, before the authority concerned, whereby the said decree of possession (Annexure P-1), as stated above, thus would become fully enforceable, and, executable.

6. In the above regard, the learned counsel for the petitioner has drawn the attention of this Court towards the revelations occurring in Annexure P-2(T), which but manifestly state, that in pursuance to execution of warrants of possession, the predecessor-in-interest of the present petitioner, one Jamait Singh (plaintiff in the civil suit concerned), thus assuming valid possession over the petition land. Therefore, prima facie the said assumption of possession, by the predecessor-in-interest of the petitioner, over the petition land, thus would occur only when obviously the above condition precedent,

became complied with by him. Resultantly, *prima facie* the said decree does

have an apt force.

7. Be that as it may, both the authorities below made concurrent verdicts of dismissal, upon the plaintiff's suit. The declining reason(s) which became assigned in the said decisions, hence are comprised in the factum, that since Annexure P-1, does not mention the apposite khasra numbers, thus the plaintiff becoming disabled to cogently establish, that the apposite saving clause, as, carried in Section 2(g)(5) (viii) of the Punjab Village Common Lands (Regulation) Act, 1961, thus saving the petition lands from their becoming vested in shamlat deh.

8. The learned counsel for the petitioner argues, that since the said annexure became tendered into evidence, before the learned Collector concerned, and, when the said argument is also well rested, upon the said annexure. Therefore, it appears that despite the said annexure becoming tendered into evidence by the plaintiff, before the statutory authority below, and, thereins thus occurring the above revelations, but revealing inter se similarity inter se khasra numbers, as detailed in Annexure P-1, thus with the ones detailed in the head note of the plaint. However, yet both the statutory authorities below appear to in an ill-informed, and, in a slipshod manner, and, without a keen application of mind, rather remained unmindful of the said annexure, but on the pretext that the said annexure, does not detail the khasra number, nor thereby the plaintiff had been able to establish the apt inter se connectivity or similarity inter se the khasra numbers, detailed in Annexure P-1, with the ones, as detailed in the head note of the plaint.

9. It is but the afore lack of application of mind to the above annexure, which rather did prima facie reveal, that the relevant khasra numbers are detailed therein, that led the learned appellate authority concerned, thus to omit to make the further exercise of making the tallying(s) of khasra numbers,

plaint.

10. It is the sheer lack of application of mind to the above, that has resulted in the drawing of the impugned order. Resultantly, the impugned order(s) are required to be quashed, and, set aside.

11. In consequence, the *lis* is remanded to the competent appellate authority concerned, with a direction to it, to after restoring the appeal to its original number, make a lawful decision thereons, but bearing in mind the above observations made by this Court. The decision of remand by the remandee Court shall take place within four months from today, but after hearing all the affected persons concerned.

12. Before parting, it is of utmost importance to refer to the petitioner earlier accessing this Court, through his instituting CWP No. 3348 of 1986. This Court, through a decision made on 14.5.2012, on the said writ petition, quashed the order dated 21.6.1985, as made by the Joint Director Panchayats, Punjab (exercising the powers of Commissioner), and, remanded the matter to the authority concerned, with a direction to consider in detail whether the petitioner had been able to connect the land in his possession with the land, which was held to be the ownership of his predecessor-in-interest vide judgment dated 14.12.1999.

13. However, yet the learned remandee Court concerned, has failed to, in terms of the said order, exercise jurisdiction, but rather appears to prima facie willfully breach, and, disobey the said order of remand, as became made, upon, it, by this Court. Moreover, the omission (*supra*), as made by the competent appellate authority concerned, has resulted in the present petitioner becoming re-dragged into unnecessary litigation. Resultantly, this Court disapproves the above willful act of abandonment(s) of exercise of jurisdiction, as becomes indulged into by the learned competent authority concerned, who

after receiving the verdict of remand, as made by this Court on 14.5.2012, upon

CWP No. 3348 of 1986, thus has not obeyed the said directions, as made upon it. Furthermore, this Court also thus deems it fit, and, appropriate to direct the Additional Chief Secretary, Revenue, Punjab to draw such appropriate actions, as deemed fit, in accordance with law, against the officer, who drew the impugned annexure, but in departure from the observations, as made upon him earlier by this Court.

14. With the afore observations, the petition stands disposed of.

15. The miscellaneous application(s), if any, is/are also disposed of.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(KULDEEP TIWARI)**  
**JUDGE**

**May 10, 2023**  
**Gurpreet**

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