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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-17376-2023

Date of decision: 10.08.2023

DALWINDER SINGH AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

1. Notice of motion.
2. Mr. Ankur Mittal, Addl. AG Haryana with Mr. Saurabh Mago, DAG, Haryana, waives service of notice on behalf of respondents No.1 to 3, and, Mr. Amarjit Markan, Advocate waives service of notice on behalf of co-respondent No.4-Gram Panchayat, through his appearing under a vakalatnama.
3. Believing the statement made at the bar, by the learned counsel for the petitioners, that despite this Court on 17.03.2023, making an order upon CWP-30972-2019, as relates to the disputed lands, as, also are involved in the instant writ petition, order whereof is extracted hereinafter, yet the Gram Panchayat concerned, through making resolution (Anexure P-2) attempting to without adhering to the process of law rather remove the encroachments, as allegedly made upon the panchayat lands.

- 1. The petitioners herein are aggrieved from the orders recorded on 11.10.2019, and, on 17.10.2019, orders whereof become respectively embodied in Annexure P-9 and Annexure P-10, whereby the official respondents have restrained the petitioners from harvesting/cutting the crops growing upon the petition lands.*
- 2. The petitioners herein plead, that the afore orders are illegal as there are no lawful ejectment orders made against them qua the disputed land. Therefore, they are led to institute thereagainst the instant writ petition, hence for seeking the quashing(s)/setting aside, of the impugned orders (supra).*
- 3. Since the lands involved in these petition lands are similar to the lands involved in CWP-30703-2019, therefore, since this Court has dismissed writ petition CWP-30703-2019, resultantly the makings of a verdict of dismissal on the writ petition (supra), does begets, a consequence that the orders impugned before this Court, in the instant writ petition, are also not amenable to be quashed and set aside.*
- 4. Therefore, the instant writ petition is dismissed. The impugned orders are maintained and affirmed.*
- 5. Furthermore, what constrains this Court, to form the above conclusion, becomes comprised in the factum, that this Court, on 04.08.2017, in CWP-17634-2017, had in paragraphs 4 and 5 thereof, paras whereof becomes hereinafter extracted, rather made certain directions upon the petitioners.*

“[4] It appears that if the Gram Panchayat succeeds in dispossessing the petitioners from the suit land during the pendency of their appeal, it would, in a way, render the appeal infructuous. The petitioners' possession till the decision of the appeal thus deserves to be protected. Ordered accordingly. At the same time, one cannot over look the fact that if the land is found to have vested in Gram Panchayat, the petitioners are liable to compensate the Gram Panchayat for the loss it is bound to suffer due to retention of its possession by the petitioners. It would be thus in the interest of justice and equity to direct the appellants before the Commissioner, Ambala Division, to deposit a sum of Rs.20,000/- per acre in the Court of Collector at Ambala within one month. The Collector shall keep the amount in FDR in a Nationalised Bank. In case the petitioners fail to establish their title, the amount so deposited alongwith interest shall be released in favour of the Gram Panchayat. However, if the appellants before Commissioner, Ambala Division succeed and are held to be owners of the land in dispute, the deposited amount has to be refunded to them.

[5] The afore-stated amount is only for the crop year 2016-17, namely, upto harvesting the current kharif crop. The Commissioner, Ambala Division, is directed to decide the appeal on the date fixed i.e., 25.10.2017

and/or in any case before 30.11.2017. In the event of the decision goes against the petitioners and if they want to avail further remedy, they shall be liable to deposit user charges for the season of Rabi-2017 and Kharif-2018 also at the same rate of Rs.20,000/- per acre, within one month from the date of passing of the order by the Commissioner, Ambala Division, Ambala. In the event of non-deposit, the contesting respondents shall be at liberty to seek vacation of the ad-interim stay.”

6. If the above made orders are not complied with, thereupon, the above made orders be ensured to be complied with, but within three weeks hereafter, and, the requisite compliance shall be made, from the date of their commencing unlawful cultivation of the petition lands, and, shall last upto theirs retaining unlawful possession of the petition lands. The compliable market value(s) in respect of the petitioners making unlawful cultivation of the petition lands, shall be co-equal to the ones, as become determined by this Court in the above extracted orders.

7. Moreover, the arrears, if any, as are required to be deposited by the petitioners, in terms of the directions carried in paragraph 4 and 5 (supra), in the order made by this Court, be also deposited within the above period of time but alongwith 3 per cent interest thereons, before the Court of the Collector concerned.

8. The above deposited amounts shall be disbursed or utilized to/by the litigants but only in accordance with law. Lawful proceedings for eviction be also drawn against the encroachers concerned.

9. Disposed of alongwith all pending applications, if any.

4. However, at this stage, the learned counsel for Gram Panchayat submits, that he has instructions to state, that Annexure P-2 shall not be enforced. He further states on instructions, that in compliance to the above extracted order, as made earlier by this Court, on writ petition (supra), the Panchayat concerned, shall through its Sarpach forthwith institute a petition under Section 7 of The Haryana Village Common Lands (Regulation) Act, 1961 before the learned Assistant Collector concerned.

5. In view of the above, the learned counsel for the petitioners seeks leave to withdraw the instant writ petition. Leave granted.

6. Disposed of as withdrawn.

(SURESHWAR THAKUR)
JUDGE

10.08.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned:-
Whether reportable:

Yes/No
Yes/No