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

CWP-19004-2023

Date of decision:22.11.2023

DARSHAN SINGH

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. T.S. Hundal, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab

Mr. J.S. Bhandohal, Advocate
for respondent No.4.

SURESHWAR THAKUR, J. (ORAL)

1. The present writ petition is directed against the concurrently made verdicts of eviction, as became respectively rendered by the learned Collector concerned, and, by the learned Commissioner concerned. The said concurrently made orders of eviction are respectively appended with the writ petition as Annexure P-1, and, as Annexure P-3.

2. Learned counsel for the petitioner, has contended with much vigor before this Court, that since the petitioner had claimed the vestment of title vis-a-vis the suit lands, thus on the basis of adverse possession. Therefore, he contends with much vigor before this Court that, since thereby the present petitioner had raised a dispute with respect to title inhering in

him vis-a-vis the suit lands. Resultantly, he argues that in terms of the

proviso to Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”), provisions whereof are extracted hereinafter, the learned Collector concerned, was enjoined to make a prima facie satisfaction, that the said assertion of title vis-a-vis the suit lands, has an aura of truth, and, thereafter was required to permit the petitioner, to submit his claim under Section 11 of the Act, and, further was, till a decision becoming rendered thereons, rather required to keep pending the petition cast under Section 7 of the Act.

“[Provided that if after receipt of the application and before the Panchayat is put in possession of the land or other immovable property in the shamilat deh, a question of right, title or interest in such land or property is raised by any person and a prima facie case is made out in support thereof, the Collector shall direct the person who has raised such question to submit his claim under section 11 and till the question is so determined, the application shall remain pending:

Provided further that if the person, who has raised the question of right, title or interest, fails to submit his claim under section 11 within the time prescribed under that section, the Collector shall presume that no question of right, title or interest is involved and shall proceed further to put the Panchayat in possession of the land or other immovable property in the shamilat deh].”

3. Therefore, the learned counsel for the petitioner contends, that in view of the mandate of the above extracted *proviso*, becoming breached by the learned Collector concerned, as such, the concurrently made verdicts of eviction are fallible, and, are required to be quashed, and, set aside.

4. For the reasons to be assigned hereinafter the above made argument does not appeal to the judicial conscience of this Court, and, is obviously required to be rejected.

5. The primary reason for rejecting the said argument, is based upon the factum, that the petitioner had acquired possession of the disputed lands, through a lease becoming granted in his favour, since the year 2016. Furthermore, in Annexure P-1 there occurs also a finding to the extent, that though, the petitioner deposited a sum of Rs.2,000/- as security, but since he failed to pay the remaining amount of lease money, to the Gram Panchayat concerned, nor proceeded to deliver the vacant possession of the disputed lands, to the Gram Panchayat concerned. Therefore, notice was issued upon the petitioner by the Gram Panchayat concerned, to thereby terminate the lease, and, with a direction, upon, him to deliver the vacant possession of the disputed lands, to the Gram Panchayat concerned.

6. In consequence, through the concurrently made verdicts of eviction, the petitioner was ordered to be evicted from the petition lands.

7. The effect of the above finding, is that, since the petitioner assumed the possession of the petition lands, through lease, becoming granted in his favour. Therefore, the said manner of assumption of possession of the petition lands, does not enable the learned counsel, for the petitioner to contend, that thereby he was holding adverse possession of the suit lands, or that the petitioner with an *animus possidendi*, thus assumed possession thereof, nor thereby his title over the suit lands became perfected through efflux time rather commencing from the year 2016.

8. Learned counsel appearing for the petitioner, has also rested the afore espousal, rather on the basis of a verdict rendered by the learned Civil Court concerned (Annexure P-4), thus in a suit for permanent injunction, whereby, the plaintiffs therein espousal qua the rendition of decree of permanent prohibitory injunction, rather became granted, whereby the defendant therein Gram Panchayat concerned, was restrained from

interfering with the peaceful possession of the petitioner over the disputed lands.

9. However, it appears on a reading of the said verdict, that the plaintiffs therein, did raise the plea of theirs perfecting the title over the suit lands, through adverse possession, but it also appears that a finding became recorded by the learned trial Judge concerned, whereby, the said plea became dispelled. Immense fortification to the above inference, ensues from the operative part of the verdict carried in Annexure P-4, operative part whereof becomes extracted hereinafter, wherein there is a specific finding that the Gram Panchayat concerned, may not dispossess, the plaintiffs from the suit lands, till the plaintiffs are evicted in accordance with law.

“In view of my findings on aforesaid all the issues, suit stands decreed ex-parte with costs to the effect that the defendant Gram Panchayat is hereby restrained from interfering into the peaceful possession of the plaintiffs over the suit land measuring 8 kanals 14 marlas bearing Khewat No.799/684, Khatauni No.1531, Khasra Nos.6//23/2/2 (1-14), 8//3/2(1-18), 9//10/2(4-14), 22//14/2(0-8) as per jamabandi for the year 2014-15, situated at village Kotra Koria Wala, as detailed in the head note of the plaint and dispossessing them from the suit land, illegally and forcibly, except in due course of law. Decree sheet be prepared. File be consigned to Record Room.”

10. Since the learned counsel for the petitioner submits, that the said judgment has acquired finality, and, conclusivity, thereby the operative part of the verdict (supra), does also hold the consequent effect, of thereby, the petitioners becoming estopped to contend, even through Annexure P-4 that they had perfected title over the suit lands by adverse possession.

11. If so, the said plea if became raised in a petition filed under Section 7 of the Act, as such, the finding recorded by the Authorities below that no cogent evidence to substantiate the said plea became adduced, and, thereby theirs concurrently holding that there was no occasion to permit the petitioner, to avail the benefit of the *proviso* (supra), but obviously makes the impugned verdicts to suffer from no grave legal fallacy. Resultantly, the apposite non reference of the dispute, relating to assertion of title, on the above basis, rather by the learned Collector concerned, does not suffer from any gross non-application of mind, to the above extracted *proviso*, nor this Court is coaxed to accept the above made submission addressed before this Court by the learned counsel for the petitioner.

12. In nutshell, this Court finds no merit in the instant petition, and, is constrained to dismiss it. Hence, the instant petition is dismissed.

13. No order as to costs.

(SURESHWAR THAKUR)
JUDGE

22.11.2023

Ithlesh

(SUDEEPTI SHARMA)
JUDGE

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