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IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH.

Date of Decision : 13.04.2023

1. CWP-31038-2018

HARDEV SINGH .....Petitioner

Versus

STATE OF PUNJAB AND ORS. ....Respondents

2. CWP-31058-2018

DARSHAN RAM .....Petitioner

Versus

STATE OF PUNJAB AND ORS. ....Respondents

3. CWP-33491-2018

GURBACHAN SINGH .....Petitioner

Versus

STATE OF PUNJAB AND ORS. ....Respondents

4. CWP-33505-2018

SURINDER SINGH .....Petitioner

Versus

STATE OF PUNJAB AND ORS. ....Respondents

5. CWP-33508-2018

KULWINDER SINGH .....Petitioner

Versus

STATE OF PUNJAB AND ORS. ....Respondents

SUKHJINDER SINGH  
6. CWP-37629-2018  
.....Petitioner

Versus

STATE OF PUNJAB AND ORS. ....Respondents

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

Present : Mr. Vikram Singh, Advocate  
for the petitioner(s) in all the cases.

Mr. Maninder Singh, DAG, Punjab.

None for respondent No. 4-Gram Panchayat.

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

1. Since all the petitions ensue from a common order, thus, all the petitions are amenable to be decided through a common verdict.

2. Gram Panchayat Village Ladiyan, Tehsil Banga, District Shaheed Bhagat Singh Nagar, through its Sarpanch Balvir Singh instituted case No. 1/ Collector, before the empowered authority, created under the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the 1961 Act'). The case (supra), was cast under the provisions of Section 7 of 'the 1961 Act', therein 40 respondents were impleaded, and, it was averred in the petition, that the afore respondents had made encroachments upon the land owned and possessed by the *Panchayat Deh*.

3. It is forthcoming from a perusal of Annexure P-1, that the learned Collector concerned, had on 19.01.2016, rather upon the above stated file, drawn a verdict of eviction against the respondents concerned.

4. The aggrieved therefrom instituted separate statutory appeals before the Appellate Authority concerned, which however were dismissed

not on merits, but on the ground that the said statutory appeals were barred by limitation, and, also on the further ground, that the relevant deposits of compensation amount was not made before the panchayat concerned, so as to make the said appeals to be well constituted.

5. Though, the aggrieved from the concurrently made orders of eviction, do not choose to assail, the said concurrently made orders of eviction passed against them, by the statutory authorities, but yet some of the respondents in the said petition against whom also the above concurrently made orders of eviction were passed, yet have chosen to assail the said orders, through theirs preferring the instant petition(s) before this Court.

6. The only attacking ground, raised before this Court, by the learned counsel appearing for the aggrieved concerned, is rested upon the factum, that the petitioners herein, despite not being validly served, with a notice but requiring theirs' causing their appearance(s) before the Collector concerned, yet nor also obviously when they were well enabled to cause either their personal appearance(s) before the Collector concerned, or to cause their respective appearance(s) through a validly engaged counsel. Therefore, the Collector concerned, could not condemn them unheard, as he has untenably done, through his making an adverse decision, on the relevant lis.

7. On the previous date of hearing, the learned State counsel, was directed to place on record, the relevant records depicting, whether as a matter of fact, each of the respondents in the said petition, was validly personally served rather in the manner ordained under law. However, the learned State counsel has fairly placed on record the summons, as became

carrying therein, the names of each of the respondents, in the said petition. The preparation of a common/composite summons, but revealing therein, the names of all the encroachers or all the respondents in the file (Supra), was not the appropriate or the tenable mode of drawing of summons, rather in terms of the relevant provisions as carried in Rule 11 Order V of the Code of Civil Procedure, 1908, provisions whereof become(s) extracted hereinafter. The said provisions ordain that each of the defendants or respondents, in the suit or the petition, are required to be personally served, and, but obviously also require that individual/separate summons in respect of each of them, are required to be prepared, besides are also required to be personally served, upon, each of them hence by the Serving Agent. Therefore, when the compositely drawn summons against the respondents, are obviously not drawn rather as authorized under law, inasmuch as, the law contrarily thereto rather prescribes that individual summons are to be prepared in respect of each of the respondents/defendants, in the petition or the suit concerned.

***11. Service on several defendants*** – *Save as otherwise prescribed, where there are more defendants than one, service of the summons shall be made on each defendant.*

8. Resultantly the drawing of composite summons but revealing therein the names of all the respondents, was not a proper mode of drawing of summons. Furthermore, when there is no report of the serving agent concerned, that each of the respondents become personally served. Therefore, there was no occasion for the learned Collector concerned, to yet proceed to embark upon drawing a decision against the petitioners herein, who however never became personally served nor were capacitated to defend themselves in the *lis*, rather either personally or through a validly engaged counsel. Contrarily, they became condemned unheard,

which but causes breach to the principles of natural justice.

9. The above breach is required to be undone. Consequently, the orders drawn by the learned Collector concerned, are required to be quashed and set aside. Moreover, even if they are being made against certain persons, who had recorded their personal appearance before the Collector concerned, yet the drawing(s) of proceedings against the appearing respondents, cannot be also protected, as this Court would not proceed to make a piecemeal vindication of the orders drawn by the Collector concerned, as thereupon it would be proceeding to commit a material illegality, as well as a gross impropriety.

10. Since, the basic decision is defectively drawn, therefore, when the aggrieved petitioners may not have had notice of the drawing of the decision, as enclosed in Annexure P-1, resulting in theirs' not appealing thereagainst before the competent Appellate Authority concerned. Thus, even if the statutory appeals became raised only by those persons, who were appearing before the Collector concerned, yet also the decisions made on such appeals by the Appellate Authority, cannot be said to acquire any aura of validity, as thereupon, all the jurisdictional defects (supra), as occur in the decision recorded by the learned Collector concerned, rather come to be untenably vindicated or protected. Therefore, irrespective of the dismissal of the apposite statutory appeals, and also even if the appearing respondents have not choosen to assail the decision as made by the Competent Authority concerned, yet this Court in the larger interest of justice, for the reasons (supra), deems it fit and appropriate, to maintain the petitions instituted before this Court, at the instance of the non appearing, and, evidently unserved respondents

11. The petitions are allowed and the decisions enclosed in Annexure P-1 and in Annexure P-3, are quashed and set aside, and, thereafter an order of remand is made, upon the, learned Collector concerned, to restore to its original number the basic petition, cast under Section 7 of 'the 1961 Act', and, to thereafter in accordance with law, his making lawful order thereons, but only after giving an opportunity of hearing to all affected concerned. The said decision be positively made within six months hereafter.

12. The petitioners herein are directed to record their appearance(s) within two weeks before the Collector concerned.

13. Since the basic petition cast under Section 7 of 'the 1961 Act' has been restored, therefore, all the other respondents/defendants, except the petitioners herein, who have been impleaded as respondents/defendants in the *lis*, are directed to be individually served with a notice, asking them, to either cause their personal appearance before the learned Collector concerned, or theirs being asked to cause their appearance through a validly engaged counsel, but in the remanded *lis*.

14. Since the main case(s) itself have been decided, thus, all pending applications, if any, are also disposed of.

(SURESHWAR THAKUR)  
JUDGE

(KULDEEP TIWARI)  
JUDGE

13.04.2023  
kavneet singh

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