

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

105

CWP-21068-2022

Date of Decision : 15.02.2023

SUKHWINDER SINGH

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

....Respondents

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

Present : Mr. Dharam Pal, Advocate
for Mr. Amit Kumar Walia, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)

1. A petition for eviction, as, cast under Section 7 of the Punjab Village Common Lands (Regulation) 1961, became instituted before the Collector concerned, by the Gram Panchayat Gobindpura Nagri, Tehsil Dirba, District Sangrur, through its Sarpanch, wherein a claim was raised for ejecting the respondent therein from the petition lands, on the premise, that a *Gairmumkin Tobha (pond)*, is located thereons.

2. The learned Collector concerned, after bearing in mind the revenue records appertaining to the petition lands, and theirs suggesting, that the petition lands are displayed in the relevant jamabandis, to be entered as *shamlat deh*, and, also with the classification column thereof, hence describing the petition lands, as *gairmumkin pond*. Thus, he made an order of eviction on 06.06.2017,

upon the petition (supra).

3. It is averred, on affidavit, in the petition that though co-respondents No. 7 to 9 had appealed against the said order of eviction before the Appellate Authority concerned, but the Appellate Authority concerned, dismissed the statutory appeal, as became raised by it. Therefore, but naturally the initially recorded order of eviction, by the learned Collector, on 06.06.2017, acquires binding and conclusive effect, as there is no other averment in the petition, that subsequently co-respondents No. 7 to 9, did challenge, the concurrently made orders of eviction, by both the statutory authorities below.

4. Resultantly the Gram Panchayat concerned, was empowered to hence institute a execution petition, for completely executing the orders of eviction, as became passed against the respondents-encroachers upon the petition lands. However, without any petition for eviction being instituted for the relevant purpose, by the Gram Panchayat concerned, rather before the Court of first instance or before the Executing Court, which but naturally is the Court of Collector concerned, yet the Gram Panchayat concerned, proceeded to suo moto ensure the eviction(s) of encroachments, as made on the petition lands, by the respondents concerned.

5. The above motion as suo moto became endeavoured by the decree holder concerned, is but without adherence to the procedure contemplated in the relevant statute. Thus the effect of the above ill constituted remedy, being suo moto drawn, for eviction of the judgment debtors concerned, from the panchayat land, is that, it yet may be condonable, especially in the face of the verdict(s) of eviction, as

pronounced against one Kesar Singh hence acquiring finality and

conclusivity.

6. Nonetheless, the execution of the orders of eviction, as made by the Gram Panchayat concerned, be hence yet brought to the notice of the learned Collector concerned, so as to enable the latter to proceed to draw or record, an objective satisfaction qua completest satisfaction being made qua the concurrently made verdicts of eviction by both the statutory authorities below.

8. Disposed of.

(SURESHWAR THAKUR)
JUDGE

15.02.2023
kavneet singh

(KULDEEP TIWARI)
JUDGE

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