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

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**CWP-22568-2020 (O&M)
Date of Decision : March 16, 2023**

SURESH KUMAR YADAV

-Petitioner

V/S

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 petitioner.

Mr. P.P. Chahar, DAG, Haryana.

Mr. Nitish Yadav, Advocate
for the respondent No.6- Gram Panchayat.

Mr. Neeraj Gupta, Advocate
for the respondent No.7.

SURESHWAR THAKUR, J.(ORAL)

1. One Captain Prabhu Dayal Yadav had instituted a petition under Section 7 of the Punjab Village Common Land (Regulations) Act, 1961 (hereinafter referred to as the 'Act of 1961' for short), before the learned Collector concerned, impleading therein(s) three respondents, inasmuch as, one Jai Chand Yadav, one Ved Mitter Yadav, and, the Gram Panchayat Daboda, Block and Tehsil Farrukh Nagar, District Gurugram, through its Sarpanch.

2. Through a decision made thereon, on 15.01.2020, the learned Collector concerned had ordered for the eviction of the respondents (supra) from the disputed land, designated as '*Gair Mumkin Rasta*' in the revenue record.

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3. It is fairly conceded at the bar, by the learned counsels appearing for the contesting litigants, that the verdict (supra), as carried in Annexure P-3, has acquired a conclusive, and, binding effect.

4. Be that as it may be, it appears that since the present petitioner was also affected by the order drawn on 15.01.2020, as carried in Annexure P-3, thus, he moved an appeal bearing No.36/RE/Collector, before the learned District Collector, Gurugram. However, through a decision made thereon, on 25.11.2020, and, as carried in Annexure P-6, the said appeal was dismissed. Further there onwards, the revision preferred thereagainst, before the revisional authority concerned, also became dismissed through an order drawn on 18.12.2020, order whereof, is comprised in Annexure P-8.

5. This Court does not deem it fit to interfere with the impugned orders, as made by the learned District Collector concerned, and, which became later affirmed by the revisional authority concerned. The reason for premising the above inference stands grooved in the fact, that the petitioner, when became never arrayed as a party, in the array of respondents, in the basic petition cast under Section 7 of the Act of 1961, whereons, a decision was made on 15.01.2020, therefore, he could not rear any appeal thereagainst. He could have reared an appeal thereagainst, only if, during the pendency of the petition, in respect whereof, an order was pronounced on 15.01.2020, he had ensured his participation therein, through his moving an application under Order 1 Rule 10 CPC, before the learned Collector concerned, hence seeking his impleadment in the array of respondents, on the ground that he is both a necessary, and, a proper party to the said lis. Since, he did not do so, therefore, when obviously he was never arrayed as a party in the basic lis, instituted under Section 7 of the Act of 1961, thus he

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could not carry any grievance against the order drawn thereon, on 15.01.2020, nor could he obviously prefer any subsequent motion(s) thereagainst, either before the appellate authority concerned, or thereafter, before the revisional authority concerned.

6. Nonetheless, since in the order made on 15.01.2020, there is an omnibus, and, an open direction by the learned Collector concerned to ensure that the encroachments, if any, as made on the '*Gair Mumkin Rasta*', and, that too by any person(s), which may also include the present petitioner, rather being forthwith removed. Therefore, the above open direction does also bring grievance to the petitioner.

7. Consequently, even if the petitioner was not impleaded as a party in the basic lis, and, though also when he could not carry thereagainst any appellate motion, or, revisional motion before the appellate authority concerned, or, before the revisional authority concerned, but yet, he becomes aggrieved from the said open direction, as carried in the operative part of the verdict drawn by the learned Collector concerned, on 15.01.2020. Therefore, the ill consequences, if any, qua the petitioner, of the above open direction, is required to be mitigated, and, is also required to be undone, and, the said would be possible only when the learned Collector concerned, in case, he is in the process of issuing warrants of possession, he ensures, that prior to his executing the said warrants of possession against the present petitioner, qua his but permitting him to file objections to the demarcation report. The said facility be forthwith granted to the present petitioner by the learned executing court, or, by the court of the learned Collector concerned. The petitioner is directed to, on receipt of a notice in the above regard, from the learned Collector concerned, submit his

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objections to the report of the demarcating officer concerned, and, on such objections being raised, the said objections shall be forthwith decided through a well reasoned order made by the learned Collector concerned. However, insofar as the conclusive, and, binding verdict(s), as have been rendered qua the other impleaded respondents, in the petition cast under Section 7 of the Act of 1961, no such facility shall be granted to them, by the learned executing court, or, by the court of the learned Collector concerned.

- 7. Disposed of in the above terms.
- 8. All pending application(s), if any, also stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

March 16, 2023
devinder

Whether speaking/reasoned. : Yes/No
Whether Reportable : Yes/No