

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

226

CWP-7172-2018

Date of Decision : **February 21, 2023**

**GRAM PANCHAYAT RAMGARH SIKRI, BLOCK TALWARA,
DISTT. HOSHIARPUR THR ITS PANCH AJAY KUMAR**

.....Petitioner

VERSUS

STATE OF PUNJAB AND ORS

.....Respondents

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

Present: Mr. K.S.Dadwal, Advocate for the petitioner.
Mr. Maninder Singh, DAG, Punjab.
Mr. Saurabh Arora, Advocate for LR's of respondent No.6.

SURESHWAR THAKUR. J.(Oral)

1. Aggrieved from the decision as carried in Annexure P-5, the aggrieved concerned, filed two separate statutory appeals before the competent authority concerned, and, to which appeal No. 120, and, appeal No. 127 of 2015 hence became assigned.

2. The learned Appellate Authority concerned, after accepting the appeal (Supra), had made the hereinafter extracted order of remand to the learned Collector concerned:-

“After hearing the arguments raised by the counsel for the appellant and after going through the record of the lower Court, I came to the conclusion that the father of the appellant was allotted 5 marla of plot as per the instructions of the Punjab Government and regarding the same, Sanad has been issued by the Govt. to the mother of the appellant. The mother of the appellant has not violated the conditions of the Gram Panchayat. The Lower Court has neither given full opportunity of hearing to the appellant and nor given any opportunity to produce the record. Therefore, while partly accepting the appeal,

the order of the Lower Court is hereby rejected. While remanding this case to the District Development and Panchayat Officer, Hoshiarpur, it is hereby instructed that the spot of the disputed land be seen and in the presence of both the parties as per policy of the government by leaving aside the land which was allotted, the demarcation of remaining land be got conducted and if after conducting demarcation after leaving aside the allotted land which was allotted to the persons, if any illegal possession is found, then the same be removed and while giving full opportunity and to produce the record to both the parties and after seeing the record produced by both the parties, fresh orders may kindly be passed within a period of thirty days.”

3. It appears that since the making of the said order of remand, the remandee Court yet has failed to exercise jurisdiction upon the *lis* as became remanded to it. Therefore, the petitioner is led to access this Court, for a mandamus being made upon the remandee Court, to comply with the order of remand as became made upon it, through the drawing(s) of Annexures P-6, and, P-7. The above asked for mandamus, is tenable, and, the instant petition is disposed of, with a direction to the remandee Court to forthwith make compliance with the order of remand, as become(s) carried in Annexure P-6, and, in Annexure P-7, and, as became made, in respect of the apposite *lis*.

4. The delay which has occurred in the remandee Court rather making compliance with the order of remand, has happened since 2018 upto the instant day, whereas, it was incumbent upon the remandee Court, to on its receiving the order of remand rather forthwith restore the *lis* to

its original number, and, thereafter proceed to draw a lawful order thereons. However, it has completely failed in its duty to exercise valid jurisdiction upon the *lis* concerned, which became remanded to it by the learned Appellate Court. Thus, the remandee Court(s) are directed to be careful in future, and, in case this Court notices, that any order of remand, but leads the beneficiaries of the verdict of the learned Appellate Court(s) concerned, to rather access this Court, thereupon, this Court shall be constrained to draw lawful action as it deem fit and proper against the remandee Court(s) concerned.

5. It is but expected from the learned Collector concerned, that he shall draw separate lawful decisions on each of the separate petitions concerned.

6. It is stated by the learned State counsel, at the bar, that the Gram Panchayat concerned, has assumed the possession of the petition land(s), therefore, the said assumption of possession of the writ land(s) by the Gram Panchayat concerned, shall be subject to the outcome of the decisions, as become lawfully drawn by the learned Collector concerned.

7. The parties are directed to record their appearance before the learned Collector concerned, on 3.3.2023.

8. Disposed of.

(SURESHWAR THAKUR)
JUDGE

February 21, 2023
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(KULDEEP TIWARI)
JUDGE

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