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

CWP-22590-2022

Date of decision:19.01.2023

SURINDER SINGH SANDHU AND ANOTHER

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Inderjit Singh Luthra, Advocate
for the petitioners.

SURESHWAR THAKUR, J. (ORAL)

1. The writ property is the subject matter of a civil suit bearing No.CS-45658 of 2013. The said civil suit is *subjudice* before the learned Civil Court concerned. During the pendency of the abovesaid civil suit, before the learned Civil Court concerned, on an application filed under Order 39 Rule 1 and 2 by the plaintiffs/petitioners herein, before the learned Civil Court concerned, but thereons though, the learned Civil Judge concerned, though did not proceed to grant the asked for relief, but ordered that the litigants concerned, maintain *status-quo qua* the suit property. The above order led the petitioners herein to make a challenge thereto, through theirs instituting an appeal under Order 43 of CPC, before the learned Appellate Court concerned. However, the learned Appellate Court concerned, affirmed the order of *status-quo*, as became initially

rendered by the learned Civil Judge concerned, on the plaintiffs' application, as became cast under Order 39 Rule 1 and 2 CPC. Nonetheless, the defendants became aggrieved from the orders of *status-quo*, as became made initially, on the plaintiffs'/petitioners' herein, application cast under Order 39 Rule 1 and 2 CPC, whereby both the Courts (*supra*), ordered for the litigants concerned, maintaining *status-quo* in respect of the suit property. Therefore, the defendants filed Civil Revision petition bearing No.371 of 2015, before this Court, whereons, the order, as made by the learned Additional District Judge, Ludhiana became quashed, and, set aside, by this Court, hence through an order made on 16.11.2017. Subsequently, the plaintiffs, in the civil suit (*supra*)/petitioners in the instant petition, became aggrieved from the verdict, as became drawn by this Court, in Civil Revision No.371 of 2015, as became preferred before this Court, at the instance of the defendants, in the civil suit concerned, through their instituting Special Leave Petition No.11629 of 2018 before the Hon'ble Apex Court. The Hon'ble Apex Court made thereons the hereinafter extracted order.

“Delay condoned.

We are informed that Suit No.45658 of 2013 (Surinder Singh Vs. Ajaib Singh) is pending before the JMJC, Ludhiana. We direct the Court to dispose of the suit expeditiously. We make it clear that any transfers/subsequent transfers of the properties referred to in the plaint schedule shall be subject to the outcome of the suit and the registering authority concerned shall make it so clear in the Transfer Deeds.”

2. A reading of the above order, discloses that the Hon'ble Apex Court, had made a direction upon the learned Civil Judge concerned, to make an expeditious decision in accordance with law, upon the civil suit concerned, but it did not cast any omnibus embargo nor it made any restriction, upon, the litigants concerned to, during the pendency of the civil suit concerned, make alienations

of the suit property, but yet the above permitted alienations were rather yet made subject to the outcome of the suit, and, with a direction to the Registering Authority, that the said Registering Authority shall make a reflection in the above regard in the Transfer Deeds concerned. It appears that in the face of the above extracted order, as made by the Hon'ble Apex Court, some alienations of the suit property occurred, at the instance of the defendants in the civil suit rather *qua* the alienee concerned. The above alienations resulted in the drawing of Annexure P-16, wherethrough the Competent Authority proceeded to draw an order *qua* change of land user in favour of the applicants therein, but made it clear that the said drawings of CLU, would be subject to the outcome of the civil suit concerned.

3. However, the petitioners herein who are the plaintiffs in the civil suit (*supra*), become aggrieved from the makings of Annexure P-16, therefore, they institute thereagainst the instant petition. It is submitted on their behalf, that a material *prejudice* would ensue to them, through sustainings of Annexure P-16, as, obviously in pursuance to Annexure P-16, there would occur changes on the suit property, thereupon, if ultimately the civil suit concerned, is decided in favour of the plaintiffs/petitioners herein, the result of the said changes, would further result in the constructions, as may occur on the suit property in pursuance to the making of Annexure P-16, but necessarily being asked to be undone, by the plaintiffs/petitioners herein, through theirs becoming driven to file an application, for restitution of possession of the suit properties, and/or, for amending the plaint concerned, *qua* a decree of mandatory injunction being rendered rather for ensurings *qua* the demolitions being made of the structures, as became raised in the suit property at the instance of the defendants concerned, in pursuance to the making of Annexure P-16. Even otherwise the result of the

above would be qua there being obviably uncalled for multiplicity of proceedings.

4. Though, the above raised argument before this Court, is permissible to be raised before the learned Civil Judge concerned, yet the learned counsel for the petitioners, has raised the above argument before this Court, and, but obviously the said argument cannot be either considered nor can become validly adjudicated upon by the Court, as the jurisdiction to make an adjudication thereon, is solitarily vested in the learned Civil Judge concerned, who is seized with afore referred civil suit. This Court also cannot preempt the fate of the civil suit and declare unlawful the change of land use, as granted in favour of the alienee(s) *lis pendens*.

5. Therefore, in the wake of the above, the instant petition is disposed of, with liberty to the plaintiffs (petitioners herein) to raise all such available pleas before the learned Civil Court concerned. However, it is expected from the Jurisdictional Civil Court concerned to, as already ordered by the Hon'ble Apex Court, decide the main civil suit hence most expeditiously.

6. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

19.01.2023
Ithlesh/devinder

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No