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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : September 12, 2023

NARENDER

-Petitioner

V/S

STATE OF HARYANA AND OTHERS

-Respondents

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

Present : Mr. Kanav Bansal, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Shivendra Swaroop, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. The Gram Panchayat, Village Barah Khurd, Tehsil and District Jind, through its Sarpanch, instituted an eviction petition bearing Case No.11/VCL, before the learned Assistant Collector concerned. In the said eviction petition, one Satpal and one Narender became arrayed as respondents. Through a verdict drawn thereon, on 18.10.2021, the learned Assistant Collector concerned, ordered for the eviction of co-respondent No.1- Satpal, from the disputed lands.

2. It is stated at the bar by the learned Additional Advocate General, Haryana, that an appeal at the instance of the above aggrieved from the verdict of eviction (supra), as becomes enclosed in Annexure P-1 herein, has been raised before the competent statutory appellate authority concerned, but, no interim relief, thus staying the operation of Annexure P-1 has been granted.

3. Moreover, it is also brought to the notice of this Court, that in

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the face of no order being made by the learned appellate authority concerned, thus staying the operation of Annexure P-1, thus has resulted in the drawing of warrants of possession by the learned Assistant Collector concerned, but yet on a motion being made by the present petitioner, who is not a decree holder in the verdict of eviction (supra), nor was he at any stage transposed from the array of respondents in the eviction petition (supra), onto the array of petitioners, for thereby the petitioner becoming empowered to exercise the leverage of a decree holder, nor thus he became empowered to file an execution petition. However, yet the said execution petition, has been instituted against the judgment debtor (supra) and also warrants of possession have been issued, and, the said warrants of possession are being strived to be enforced against the estate of co-respondent No.1 Satpal only, because the competent appellate authority has not stayed the operation of Annexure P-1.

4. Be that as it may, even if no stay has been granted by the competent appellate authority concerned against the operation of Annexure P-1, but yet prima facie, since the present petitioner was not a decree holder, whereas, the Gram Panchayat concerned was the decree holder, and thus became solitarily empowered, to institute an able execution petition, for enforcing Annexure P-1, thereby this Court finds, that prima facie the warrants of possession were not required to be issued by the learned Assistant Collector concerned, thus merely at the instance of a non decree holder, who is the present petitioner before this Court.

5. In spite of the above observations, the petitioner has still motioned this Court for a mandamus being made, upon, the learned Assistant Collector concerned, to ensure that the promptest execution, is

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made, of the warrants of possession (supra). The above motion, as become cast before this Court, by a non decree holder is completely bereft of any valid locus standi rather investing in the said non decree holder concerned. In consequence, the present petition, at this stage, at the instance of a non decree holder, who became dis-empowered to institute an execution petition, is both misconstituted as well as a gross abuse of the process of court.

6. In consequence, the present petition is disposed of, but with a direction, upon, the Sarpanch of the Gram Panchayat concerned to, in case Annexure P-1 has attained binding and conclusive effect, thus forthwith institute an execution petition before the learned Assistant Collector concerned, for enforcing Annexure P-1, who shall thereafter, in accordance with law, make a lawful expeditious decision thereon, but after hearing all affected persons concerned.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

September 12, 2023
devinder

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