

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

203+115

CWP-23966-2022(O&M)

Date of Decision : **January 10, 2023**

M/S G.K. ESTATE AND ORS

.....Petitioners

VERSUS

JOINT DEVELOPMENT COMMISSIONER (IRD) PB. AND ORS

.....Respondents

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

Present: Mr. Sherry K. Singla, Advocate
for the petitioners.

Mr. Paramjit Batta, Addl. AG, Punjab.

Mr. Aayush Gupta, Advocate
for respondent No.7.

SURESHWAR THAKUR, J.(ORAL)

1. The Collector through a decision made on 25.8.2022, upon, a petition cast under Section 7 of the Punjab Village Common Land (Regulation) Act, 1961, after accepting the petition of the Gram Panchayat concerned, proceeded to order for the eviction of the respondent No.1 therein, and, the petitioner No.1 (herein), from the petition lands. However, the above order of eviction, as became rendered by the Collector concerned, was made subject to a valid demarcation being carried out of the encroached sites concerned. The entire eviction procedure was ordered to commence within a period of 30 days, from making of the order of 25.8.2022, by the Collector concerned.

2. Be that as it may, significantly since *khasra no.51*, was reflected in the revenue record to be carrying the classification of '*gair*

mumkin kabristan' as such when its ownership, and, possession vested in the Punjab Wakf Board, therefore, the learned Collector concerned, did not aptly deem it fit to order for the eviction therefrom of the encroachers concerned. In pursuance to the said order of eviction, but, yet subject to a apposite valid demarcation being made by the competent revenue officer concerned, rather the Collector concerned, proceeded to issue warrants of possession. The said warrants of possession are carried in Annexure P-4. In Annexure P-4 there is yet also mentioning of the *khasra no.51* which, however, remain excluded from the ambit of the order, as became rendered by the Collector concerned. Moreover, a reading of Annexure P-4, discloses that the condition precedent for its issuance, in-as-much-as, it being preceded by a valid demarcation, being carried of the purportedly encroached upon *khasra numbers* rather did not come to be complied with.

3. The above purported infirmity in the makings of the warrants of possession as carried, in Annexure P-4, led the aggrieved to access this Court through theirs instituting CWP No.22697 of 2022. On the above petition, through a decision made on 30.9.2022, the State was directed to not enforce the warrants of possession drawn respectively on 16.9.2022, as well as, on 23.9.2022, unless prior thereto a valid demarcation is made of the *khasra numbers* concerned.

4. Learned Addl. Advocate General, Punjab intimates this Court that after a valid demarcation being conducted by the revenue officer concerned, of the *khasra numbers* concerned, the verdict drawn on 25.8.2022 by the learned Collector has been completely enforced.

Moreover, the learned Addl. Advocate General, Punjab on instructions imparted to him by the Officer concerned, submits that the possession of *khasra no.51*, is with the Gram Panchayat, whereas, the revenue entries in respect thereof describe the same to be '*gair mumkin kabristan*', thus making it amenable for being vested in the Punjab Wakf Board.

5. In the wake of the above, especially given the order made by the Collector concerned, rather excluding *khasra no.51* hence with the above description, from the ambit of the order of the eviction passed in respect of the other *khasras numbers*, but yet only after a valid demarcation thereof being made by the competent revenue officer, therefore, even the possession of the Gram Panchayat concerned, of the above *khasra numbers* is prima facie not tenable. Therefore, irrespective of the fact that the Collector concerned, was alone jurisdictionally empowered to draw satisfaction with respect to the completest execution of the executable order as made by him, on 25.8.2022, yet given the respondents concerned, taking to, in the garb of the orders pronounced by this Court in CWP (Supra), suo moto taking to enforce the same, yet the satisfaction in respect thereof, has to be recorded by the learned Collector concerned.

6. Resultantly, the execution or enforcement of the executable orders, as passed by the learned Collector concerned, as intimated to this Court by the learned Additional Advocate General, Punjab on instructions given to him by the authorities concerned, may not constrain this Court to record its satisfaction about their apposite ablest execution.

In sequel, the report in respect of the execution of the executable orders,

as passed by the Collector concerned, be promptly filed before the learned Collector concerned, and, thereafter the learned Collector concerned, shall proceed to draw an order in respect of the completest execution of the orders, as passed by the Court at first instance. On the above, report being filed by the respondents concerned, before the Court of first instance, or, the executing Court concerned, the latter shall in accordance with law, pass orders with respect to the completest satisfaction of the executable order, or, if yet satisfaction is wanting in respect of the executable orders passed by the Court of first instance, he shall proceed to within a period of two months, hence draw the completest satisfaction in respect of the execution of the executable orders, as passed by the authorities concerned. Moreover, the Punjab Wakf Board is also permitted to join the execution proceedings to ensure that it assumes possession hence free from all encumbrances, if possible, of *khasra no.51*.

7. Disposed of.

8. All the pending applications stand disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

January 10, 2023
ajay-1

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