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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-25338-2022 (O&M)

Date of decision:19.04.2023

NISHAN SINGH (SINCE DECEASED) THROUGH LRS. AND ANR.

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Swarn Tiwana, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. Gram Panchayat Raipur Gujran, Tehsil Bassi Pathana, District Fatehgarh Sahib instituted case No.216-Additional Deputy Commissioner(D)/Collector, before the learned Collector concerned. The said petition was instituted under the provisions of Section 11 of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”). A claim for rendition of a declaratory decree was made therein, inasmuch as, the petitioner therein, being declared as owner of the suit land, as it falls within the inclusionary definition of *Shamlat Deh*. The above misl case, was decided on 07.09.2018, verdict whereof is enclosed in Annexure P-1, whereby the asked for declaratory relief was granted to the petitioner (supra). The aggrieved therefrom preferred appeal No.000266 of 2019 before the Competent Appellate Authority. The Competent Appellate Authority made thereons a decision on 05.01.2022, whereby it affirmed the earlier decision, as became rendered on the apposite lis

by the learned Collector concerned. Resultantly, the aggrieved from the said made concurrent decisions against them by the Statutory Authorities below, are led to institute thereagainst, the instant writ petition before this Court.

2. The principal ground or the premise, whereons, a conclusion became rested by both the Statutory Authorities below, that the suit lands, were amenable to become declared to be owned by the Panchayat concerned, became planked, upon, the factum that though the petitioners herein, had claimed that they had purchased, the suit lands, in an auction sale, conducted by the Authorized Officer, of the Department of Rehabilitation, but yet since the relevant sale certificate became not tendered into evidence nor became proven in accordance with law. Thus for want of the above claim becoming rested upon the apposite firm evidence (supra), thereupon a verdict granting the relevant decree was rendered in favour of the petitioner concerned.

3. Be that as it may, the present petitioners had instituted CWP-3394-2023 before this Court, and, thereon the hereinafter extracted directions were made. In consequence to the hereinafter made directions, the petitioners made an application under the Right to Information Act, 2006, before the Public Information Officer concerned, resulting in emergence of information as detailed in Annexure A-1, appended with CM-6649-2023. The said Annexure A-1 discloses that as a matter of fact the suit land was sold through a sale certificate made in favour of the petitioners.

“The instant petition is disposed of with a direction to the petitioners to forthwith move an application before the Information Officer concerned, as becomes constituted under the Right to Information Act, 2006. On such application, being moved before the Information Officer concerned, the latter shall make a lawful intimation to the petitioners, but within the time, as becomes prescribed in the said statute.”

4. However, the above piece of additional evidence has emerged only before this Court, and, obviously was not either tendered nor became proven in accordance with law, before the Competent Authorities below. Therefore, unless an opportunity to adduce evidence rebutting the above annexure, is granted, to the Gram Panchayat concerned, and, which opportunity cannot be granted in the instant writ petition, thus rather no credence at this stage can become assigned to the said annexure. Thus, after assigning only *prima-facie* credence to Annexure A-1, this Court is constrained to quash the impugned verdicts, as, made against the present petitioners. Moreover, this Court is also constrained to remand the lis, to the learned Collector concerned, with a direction to him to restore the lis to its original number, and, thereafter permit the petitioners to tender before him, the above piece of additional evidence, besides ensure that it is proven in accordance with law, but also with an opportunity to adduce cogent rebuttable evidence thereto being granted to the Gram Panchayat concerned. Subsequently, if the Remandee Court is of the opinion, that credence is to be assigned to Annexure A-1, thereupon it shall in accordance with law, draw a fresh decision upon the lis, which has been ordered to be restored to its original number. The Remandee Court shall decide the lis afresh but positively within 3 months from today.

5. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

19.04.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No