

In the High Court of Punjab and Haryana at Chandigarh

(125)

**CWP No. 22089 of 2023
Date of Decision: 03.10.2023**

Gram Panchayat Asan Khurd

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

Present: Mr. Ishnoor Singh, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (ORAL)

1. There is no wrangle amongst the contesting litigants, before this Court, that the order made on 8.8.2023, upon case No. 145/PVCL/DRO, thus by the learned Assistant Collector, First Grade, Panipat, whereby the respondent concerned, was ordered to be evicted from the petition land, rather has acquired binding, and, conclusive effect.

2. If so, the said binding, and, conclusive verdict (Annexure P-1), was required to be forthwith put to the utmost efficacious execution.

3. It appears from a reading of Annexure P-2, that the decree holder Gram Panchayat concerned, did file an execution petition for seeking the efficacious execution of the binding, and, conclusive verdict of eviction (Annexure P-1), as passed by the learned Assistant Collector concerned. Though, also in terms of the said binding, and, conclusive verdict (Annexure P-1), wherein directions were made, upon the BDPO concerned, to ensure the makings of the completest execution of Annexure P-1, yet the BDPO

concerned, being purportedly negligent in his not ensuring the taking of further steps, to ensure the delivery of possession of the disputed land(s), being made to the decree holder concerned.

4. Therefore, the learned Executing Court concerned, in so observing, though has tried to make an efficacious execution of Annexure P-1, but it also appears, that the directions, as made to the BDPO concerned, and, which became purportedly violated by the latter, were required to be also supplemented by the drawings of warrants of possession by the learned Assistant Collector concerned, and, such drawn warrants of possession, being delivered for apposite execution, thus to the executing officer concerned, who may have been either the BDPO or some other officer/official concerned.

5. However, it appears that the Executing Court concerned, though became well empowered to draw warrants of possession, given theirs being the utmost efficacious course, thus to ensure the delivery of possession of the disputed land(s) to the decree holder concerned, yet it failed to exercise the said jurisdiction.

6. Therefore, the failure on the part of the Executing Court concerned, to decline to exercise the jurisdiction (supra), which became vested in it, inasmuch as, for issuing the warrants of possession for thereby ensuring the makings of the promptest, and, efficacious execution of Annexure P-1, thus has resulted in its committing a gross illegality, and, impropriety.

7. In consequence, the instant petition is allowed, and, a mandamus is made upon the Executing Court concerned, to forthwith draw warrants of possession, and, thereafter transmit them, to the executing

officer concerned, who may be other than the BDPO concerned, so that the said warrants of possession are ensured to be promptly executed. On the report of the executing officer concerned, being made to the learned Executing Court concerned, thereupon, the latter shall proceed to make an order disclosing satisfaction, that Annexure P-1 has been put to the completest, and, efficacious satisfaction.

8. The above be ensured to be done within a period of two months from today.

9. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

October 03, 2023
Gurpreet

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