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

CWP-31679-2019

Date of decision:02.05.2023

GRAM PANCHAYAT HIMMATPURA

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

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

Present: Mr. Jaitej Pratap Mittal, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab

Mr. Akshit Mehta, Advocate for
Mr. Ravneet Singh Joshi, Advocate
for respondents No.4 to 7, 9 11 and 12.

SURESHWAR THAKUR, J. (ORAL)

1. The Registry of this Court has reported that co-respondent No.14 refused to accept the summons. Therefore, his refusal tantamounts to his becoming served, but since he is not represented through any counsel nor appeared in person, therefore, he is ordered to be proceeded against ex-parte.

2. The prayer made in the instant petition is that, a mandamus being made, upon the learned Collector concerned, to ensure that the decision (Annexure P-3), as made by the learned Collector concerned, on the relevant motion is put to promptest, and, efficacious execution. The above asked for mandamus would become granted to the petitioner, but only if there was a binding, and, conclusive order of eviction made in respect of the petition lands, besides when there was indolence, and, lethargy on the part of the decree holder

concerned, or on behalf of the learned Collector concerned, to ensure the promptest execution of the said binding, and, conclusive order of eviction.

3. The above parameters regulating the making of a mandamus, upon the respondent concerned, is not yet available, as, even if the order of eviction (Annexure P-3) has been upheld by the Competent Appellate Authority concerned, yet only, upon, the challenge to the said order as made before this Court, by the aggrieved therefrom, is thus also rejected, thus it would acquire conclusivity. Resultantly, when the eviction order carried in Annexure P-3, has not acquired conclusivity, through the same becoming upheld by this Court. Therefore, the same cannot at this stage, become put to completest efficacious execution. As such, the instant petition, at this stage, is not maintainable, and, is disposed of as such. However, upon a binding, and, conclusive verdict of eviction being made by this Court, or if no challenge is made to the Appellate Court's order whereby it accepts Annexure P-3, thus thereupons the warrants of possession may be issued in respect of the petition lands. In other words, the warrants of possession would be amenable to be issued, if the challenge made to the Appellate Authorities' order of eviction, is also accepted by this Court, and/or, may become amenable to be drawn, and, enforced, upon, no promptest challenge being made, before this Court, at the instance of the aggrieved against the Appellate Court's order of eviction, and besides when non stay is granted by this Court, against the operation of the impugned verdict of eviction, as, made by the authorities below.

4. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

02.05.2023

Ithlesh

Whether speaking/reasoned:-

Yes/No

Whether reportable:

Yes/No