

In the High Court of Punjab and Haryana at Chandigarh

(114)

**CWP No. 23970 of 2023
Date of Decision: 19.10.2023**

Surinder Pal Singh and others

.....Petitioners

Versus

Joint Development Commissioner,
Rural Development and Panchayat and others

.....Respondents

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

Present: Mr. Gaurav Chopra, Senior Advocate with
Mr. Jatin Bansal, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The estate holders in the disputed lands claimed in case No. 2/2014/VCL, that the said disputed land(s) designated in the revenue records, as shamlat deh, were, without any right, title and interest thereons, thus subjected to cultivation(s) by the defendants in the said case.

2. The misal (supra) instituted on 27.11.2014, became decided on 2.6.2023 (Annexure P-14), whereby the declaratory relief relating to the disputed lands, being declared as shamlat deh lands, and, theirs as such vesting in the Gram Panchayat concerned, became assigned to the plaintiffs concerned.

3. The petitioners in the instant petition, were arrayed as respondents in the said misal, and, on theirs becoming aggrieved from Annexure P-14, they proceeded to rear thereagainst a statutory appeal.

Moreover, during the pendency of the said appeal, an application became

also instituted by the aggrieved judgment debtors concerned, seeking therein relief, that during the pendency of the said appeal, the operation of Annexure P-14 be stayed.

4. The above application became dismissed, thus leading the present petitioners to make thereagainst the instant writ petition before this Court.

5. The order which has been challenged before this Court is extracted hereinafter.

“File put up. The counsel for both the parties appeared. The counsel for the appellant argued on the point of stay. Due to having no force in the arguments of the appellants, the application for stay is hereby dismissed. The lower court record be requisitioned. The respondents be issued notice. Case be put up on 23.8.2023.”

6. A bare reading of the above order reveals, that it is not only drawn most sketchily, and, in a cryptic manner, but obviously is also without any grave application of mind to the necessity of the order challenged before the Appellate Court, rather becoming stayed, thus for ensuring that equities in respect of the disputed lands are maintained. Importantly also, when unless the said equities remain undisturbed till the decision is made in the main appeal, thereupon there would be no necessity of the successful litigant(s) in the appeal rather being led to draw restitutory proceedings in respect of the disputed land(s).

7. The lack of application of mind to the above principles by the appellate authority concerned, rather in an ill informed manner, besides its cryptically drawing the impugned order, has led this Court to conclude, that thereby the jurisdiction invested in the appellate authority concerned, has

been not exercised, in accordance with law, rather it has been exercised with

a gross illegality, and, impropriety.

8. In consequence, after allowing the instant petition, the impugned order is quashed, and, set aside.

9. The parties are directed to maintain status quo in respect of the petition land(s) till a decision is made, upon the subjudice appeal, by the learned appellate authority concerned. Moreover, the learned appellate Authority concerned, is also directed to, within six months from today, make a lawful speaking decision on the appeal (supra), but after hearing all the affected persons concerned.

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

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

October 19, 2023
Gurpreet

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