

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CWP-25060-2023

Date of Decision : 29.11.2023

JOGINDER SINGH AND ORS.

.....Petitioners

Versus

STATE OF PUNJAB AND OTHERS

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)

1. The present petitioners have filed a declaratory suit under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter for short called as the 'Act of 1961') thus before the Collector concerned, whereby they claimed rendition of a declaratory decree, thus making them owners in possession of the suit lands.

2. The said suit was instituted on 03.04.2023. However, subsequently a petition under Section 7 of the 'Act of 1961' became preferred by the Gram Panchayat, Village Akkar, Block Shambhu Kalan, Tehsil Rajpura, District Patiala, against the petitioners, who had earlier filed the declaratory suit (supra). Therefore, the present petitioners filed application(s) (Annexures P-6 to P-9) before the learned Collector concerned, exercising jurisdiction on an application filed under Section 7 of the 'Act of 1961', thereby seeking his ordering for adjourning the said *lis* upto a decision, is made by the Collector concerned, on the latter exercising jurisdiction on a petition filed under Section 11 of the 'Act of 1961'.

3. The above application was filed, on anvil of the provisions engrafted in Section 10 of the CPC, wherein it has been expostulated, that the principle of *res subjudice* shall apply, and/or the then prior instituted *lis* is to be, *prima facie*, decided before a decision being rendered on the latter thereto instituted *lis*, especially when both relate to common lands, and are also between the parties which are similar in both the *lis*.

4. However, on the said application(s) a declining order was made. The said declining order (Annexure P-10), is challenged before this Court, the same breaching the principle of *res subjudice*.
5. Since a dispute with respect to entitlement of the Gram Panchayat concerned, to seek the valid eviction of the petitioners, in the civil suit concerned, is to be settled in a petition constituted under Section 11 of the 'Act of 1961' therefore, upto a conclusive decision is made thereons, thus, in favour of the Gram Panchayat concerned, thereupto the Gram Panchayat, was not well enabled to institute a petition under Section 7 of the 'Act of 1961', for thereby seeking the eviction of the encroachers, upon, the land owned and possessed by the Gram Panchayat concerned.
6. In the wake of the above, there is merit in the instant petition. Thus, the impugned order (Annexure P-10) is quashed and set aside.
7. The learned Collector concerned, exercising jurisdiction on a petition filed under Section 7 of the 'Act of 1961', is directed to assign adjournment(s) in the said *lis* but only upto a decision is made on a petition under Section 11 of the 'Act of 1961'.
8. It is made clear that the above order is subject to the condition that there is identity vis-a-vis the litigants in Section 7 and Section 11 petition, as preferred before the statutory authority concerned, besides relate to common lands.
9. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

29.11.2023

kavneet singh

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