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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-82-2024
Date of decision: 09.01.2024

INDERJIT SINGH
...Petitioner
Versus
STATE OF PUNJAB AND OTHERS
...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. H.K. Brinda, Advocate
for the petitioner.
Mr. Maninder Singh, DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioner has suffered concurrent verdicts of eviction, upon, a petition filed under Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”), respectively from the learned Collector concerned, and from the learned Commissioner concerned. It is not contested amongst the litigants appearing before this Court, that the said verdicts of eviction(s), rather have acquired binding and conclusive effect.
2. Be that as it may, since in pursuance to the making of a verdict of eviction by the learned Collector concerned, thus on 23.07.2014, rather warrants of possession became issued against the estates of the judgment-debtors concerned. Therefore, one Inderjit Singh made a challenge to the

said drawn verdict of eviction, through his instituting thereagainst a statutory

appeal before the learned Commissioner concerned. The said statutory appeal became decided in the year 2022. Moreover, a challenge to the said issued warrants of possession became also thrown by one Inderjit Singh, through his instituting CWP-23647-2015, before this Court. On the writ petition (*supra*), this court made the hereinafter extracted order.

“The short grievance of the petitioner in this writ petition is that though his statutory appeal against the eviction order dated 23.07.2014 is pending before respondent No.2, i.e., the Appellate Authority, in which he has prayed for ad-interim stay also but no order on that application was passed and meanwhile, warrants of possession have been issued for execution of eviction order.

We find from the record that the appeal is stated to have been filed on 10.11.2014.

Taking into consideration the totality of circumstances and the fact that the petitioner availed the remedy of appeal under the statute without wastage of time and his dispossession in the interregnum would render the appeal as infructuous, we dispose of this writ petition without expressing any views on merits, with a direction to the parties to maintain status-quo re: possession during the pendency of the above-stated appeal subject to the condition that the Appellate Authority may impose such reasonable terms and conditions on the petitioner within two weeks of receipt of a certified copy of this order, which the Appellate Authority may deem necessary to protect the interest of Gram Panchayat. It would also be appreciated if the Appellate Authority may, without prejudice to the pendency of older appeals, decide the petitioner's appeal expeditiously and preferably within four months.

Ordered accordingly.

Dasti.”

3. Though, the decision on the statutory appeal, became uncontrovertedly pronounced in the year 2022, but it has been most confidently stated, at the bar, by the learned State counsel, that the order (supra), as became made by this Court, whereby a direction was made, upon the litigants, to during the pendency of the statutory appeal, hence maintain status-quo regarding possession, rather became procured by suppression of the trite factum, that earlier theretos inasmuch as, on 21.10.2015, thus the warrants of possession against whose enforcement the writ petition (supra), was instituted, and, also became decided in terms (supra), rather had been completely executed. Resultantly, the writ petition (supra), asking for the stayings of the execution of warrants of possession or the orderings of maintaining of status-quo against dispossession, but obviously did become an infructuously availed remedy.

4. Subsequent to the decision on the eviction petition, becoming made by the learned Collector concerned, on 23.07.2014, rather in the year 2018, as revealed by Annexure P-1, the present petitioner instituted, a declaratory suit under Section 11 of the Act, before the learned Collector concerned, seeking therein a declaration, that he/they be declared as lawful owner(s) in possession of the suit lands.

5. The learned Collector concerned, on receiving the said petition, thus as revealed by Annexure P-1, made a declining order on the said suit. However, an appeal against Annexure P-1 is stated to have been raised by the aggrieved therefrom, before the learned Commissioner concerned, but the said appeal is stated to be yet subjudice before the learned Commissioner concerned.

6. The ire controversy which has now erupted before this Court, is grooved in the factum, that despite successful and efficacious execution of the warrants of possession, being made in the year 2015, thus by the Executing Court concerned, yet the re-entry as made by the present petitioner, upon the disputed land, thus is a lawfully made re-entry. Conspicuously the said re-entry has also resulted in the warrants of possession (Annexure P-5) being again drawn by the learned Executing Court concerned. Therefore, annexure P-5 has been challenged before this Court.

7. Today, learned counsel for the petitioner though has stated, that he has raised a statutory appeal, before the learned Commissioner concerned, against the declining order (Annexure P-1), as became recorded, by the learned Collector concerned, on his petition filed under Section 11 of the Act. He further submits, that in the statutory appeal, an application (Annexure P-3) has been filed, seeking the staying of the operation of Annexure P-1, but the same has not been decided. Therefore, he contends that the mere filing of a statutory appeal against Annexure P-1, but without any decision becoming made on Annexure P-3, by the learned Commissioner concerned, yet made a well restraint upon the Executing Court concerned, against its issuing the impugned warrants of possession Annexure P-5.

8. For the reasons to be assigned hereinafter the above argument does not appeal to the judicial conscience of this Court, and, is rejected.

9. The primary reason for making the above inference, becomes garnered from the factum, that when the warrants of possession, which

one of whom is the present petitioner, were thus executed, but importantly post the making of a decision on a petition filed under Section 7 of the Act. Moreover, when the successful execution of the warrants of possession, happened prior to the making of the decision (supra), by this Court, on 04.11.2015, upon, CWP-23647-2015. Resultantly, when the order (supra), as made earlier by this Court, is but procured through suppression from this Court by the petitioner, of the trite factum, that given the successful execution of the warrants of possession, against the estates of the judgment-debtors, rather taking place prior to the institution of the writ petition (supra). In sequel, when as such, the earlier writ petition was not maintainable, and/or, was an infructuously raised remedy, given the prayer made therein for the staying of operation of the execution or enforcement of the warrants of possession, but obviously then becoming rendered nugatory. Moreover, when the said successful execution of the warrants of possession in pursuance to the makings of the verdict of eviction on 23.07.2014, by the learned Collector concerned, occurred prior to the institution of a declaratory suit, under Section 11 of the Act, thus in the year 2018, before the learned Collector concerned. In addition, reiteratedly when a declining order (Annexure P-1) has been made thereons.

10. Conspicuously also since the relief (supra), as was granted to the petitioner in the earlier writ petition, was procured by suppression, of the trite factum qua the warrants of possession rather becoming executed earlier to the institution of the writ petition (supra). Resultantly, the re-entry as made into the disputed lands, by the petitioner was an impermissible re-entry thereintos, but naturally as trespasser(s). Therefore, the said impermissible

re-entry into the disputed lands of the petitioner was required to be undone, through issuance of the impugned warrants of possession (Annexure P-5).

11. Further fortification to the above inference is marshalled, from the further fact, that an immense lapse of almost 3 years has occurred, since the makings of successful execution of the warrants of possession against the estates of the judgment-debtors concerned, one of whom is the present petitioner, and, the institution of a petition under Section 11 of the Act, whereby a concomitant palpable inference becoming sparked, that thereby the judgment-debtors acquiescing to the validity of the execution of the warrants of possession against their respective estates. Resultantly, the petitioner is estopped to challenge Annexure P-5.

12. Even otherwise, the non-making of a decision, upon the interim application filed within the subjudice statutory appeal whereby stay was asked against the operation of Annexure P-1, cannot be deemed to be ipso facto restraining the Executing Court to re-enforce the warrants of possession which became successfully executed in the year 2015 against the estates of the judgment-debtors concerned.

13. Conspicuously, the remedy, if any, available to the petitioner, to cause restoration of possession of the disputed lands to him or to the other judgment-debtor(s) concerned, rather from the Gram Panchayat concerned, was only, upon, a favourable verdict being made by the learned Commissioner concerned, on the statutory appeal preferred before him, against Annexure P-1. Since the decision on the statutory appeal, is still awaited, therefore post the successful execution of the warrants of possession, in the year 2015, and, that too prior to the making of the order

be grossly impermissible. In consequence, the impugned drawn warrants of possession are deemed to be validly recorded.

14. In consequence, this Court finds no merit in the instant petition, and, is constrained to dismiss the same. Hence, the instant writ petition is dismissed. The learned Commissioner concerned, is directed to, within 2 months from today make a valid speaking decision upon the relevant statutory appeal, but after hearing all the affected persons concerned.

(SURESHWAR THAKUR)
JUDGE

09.01.2024

(LALIT BATRA)
JUDGE

Ithlesh

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