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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-15948-1996
Date of decision:19.01.2024

GURDEV SINGH AND ANOTHER

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. B.S. Patwalia, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab

None for respondents No.2 to 11.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioners whose lands were also subjected to an exchange with the lands of the Gram Panchayat concerned, thus through the drawing of impugned Annexure P-8, have through the institution of the instant writ petition before this Court, thus made a challenge to the validity of Annexure P-8.
2. The said challenge appears to be grounded, on the factum, that neither the relevant parameter relating, to the village proprietary body becoming therebys benefited nor the parameter of the equivalence of valuations of the lands of the parties to the exchange, thus becoming borne in mind, whereby it is contended before this Court, that the impugned Annexure P-8 requires to be quashed, and, set aside, as therebys it is ingrained with a pervasive vice of malafides. Annexure P-8 as apparent on

its reading, unveils that the Panchayat resolution concerned, became

accorded approval by the Competent Authority. If so, the according of the approval to the resolution of the Gram Panchayat, was challenge-able not through the rearing of the instant writ petition before this Court, but simply for the reason that a valid challenge thereto, was rather recoursable before the alternate thereto forum, inasmuch as, through an appeal in terms of Section 6 of the The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”), but at the instance of the aggrieved, becoming laid before the competent Appellate Authority concerned.

3. Therefore, prima-facie the non-availment earlier of an efficacious, and, alternate remedy to the institution of the instant writ petition before this Court, but thereby makes the instant writ petition, to be a grossly mis-constituted recourse.

4. It appears that this Court through a verdict drawn, on the instant writ petition on 28.04.1997, had dismissed the writ petition, but it also appears, that the dismissal order made on the said date, upon, the instant writ petition rather was cryptically drawn, and/or, was not grooved in any validly recorded reasons.

5. The above earlier cryptically drawn verdict by this Court, led the aggrieved therefrom, to institute SLP No.11771 of 1997, which later became converted in Civil Appeal No.8460 of 1997. As revealed by the orders, as, made on the said civil appeal, the Hon’ble Apex Court, simply for the reason, that the earlier made order by this Court, was cryptically drawn or was made without any valid reasons becoming assigned, thus quashed, the same, and, subsequently ordered for the remand of the lis to this Court.

6. Therefore, the lis after remand to this Court has been restored to its original number.

7. Learned counsel for the petitioners forcefully submits, that for all the above stated reasons Annexure P-8 is required to be set aside, and, quashed.

8. However, this Court is not in agreement to the said submission addressed before this Court, and, the reason for rejecting, the said submission, is grooved in the factum, that since the present petitioners, had a remedy alternative to the institution of the instant writ petition before this Court, for thereby theirs challenging Annexure P-8. Resultantly, on the short ground of availability of a remedy alternative to the instant writ petition, the instant writ petition thus deserves to be dismissed.

9. Even otherwise, it is stated today, at the bar, by the learned State counsel, on instructions imparted to him, that in pursuance to the makings of Annexure P-8, the relevant attestation of mutation of exchange, thus, in pursuance to registered deeds of exchange, thus has been entered by the learned Collector concerned. However, despite the said fact occurring subsequent to the making of the impugned Annexure P-8, neither the petitioners have made any amendment in the instant writ petition nor asked for the further consequential relief, that the said made mutation be quashed, and, set aside.

10. Be that as it may, even if the said amendment was made and, a consequential thereto relief for quashing, and, setting aside of the relevant mutation was asked to be assigned to the present petitioners, but to the considered mind of this Court, in the writ jurisdiction neither the said relief could be claimed nor it could be assigned to the present petitioners, but for the simple reason, that the remedy for making a valid challenge, to the attestation of the mutation, as made in pursuance to Annexure P-8 or in pursuance to the registered deeds of conveyance, rather was through either a

civil suit being filed before the learned Civil Court of competent jurisdiction or through a challenge thereto being made, through an appeal being raised against the relevant mutation, rather before the learned Collector concerned.

11. Apparently, for all the above remedies remaining unavailed for a long duration of time, therefore prima facie it appears thereby they became waived and abandoned by the petitioners.

12. In consequence, this Court finds no merit in the instant petition, and, is constrained to dismiss the same. Accordingly, the instant writ petition is dismissed.

(SURESHWAR THAKUR)
JUDGE

19.01.2024
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(SUKHVINDER KAUR)
JUDGE

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