



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

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**CWP-16412-1997 (O&M)  
Date of Decision: 09.05.2024**

Gram Panchayat of village Mawa, Tehsil Anandpur Sahib, District Rupnagar

..... Petitioner

Versus

Joint Development Commissioner, IRD, exercising the powers of  
Commissioner, Chandigarh and others

..... Respondents

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

Present: Mr. H.K. Brinda, Advocate, for  
Mr. Dharam Pal, Advocate  
for the petitioner.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Arvind Mittal, Advocate  
for respondents No.2 to 5.

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**SURESHWAR THAKUR, J. (ORAL)**

1. The present petitioner becomes aggrieved from the orders of  
eviction embodied in Annexures P-15, whereby the Appellate Authority  
after reversing the verdict of eviction as became passed by Collector  
concerned, Annexures P-13, thus dismissed the apposite eviction petition.

2. Mr. Maninder Singh, learned Sr. DAG, Punjab appearing on  
behalf of co-respondent No.1 and learned counsel appearing for the



respondents No.2 to 5, and, the counsel appearing for the Gram Panchayat are *ad idem* that though in response to the eviction petition, the present respondents in terms of the proviso to Section 7 of the Punjab Public Premises and Land (Eviction and Rent Recovery) Act, 1973, thus raised a question of title, whereby they attempted to scuttle the averred rights of the Gram Panchayat concerned, to seek their eviction, from the disputed lands, yet the said question of title, neither becoming referred to in the impugned decision(s) nor the same becoming decided through a speaking order.

3. Consequently, the counsels appearing for the Gram Panchayat concerned as well as Mr. Maninder Singh, learned Sr. DAG, Punjab consensually submit, that therebys the instant writ petition is required to be allowed, and, therebys the verdict of eviction Annexure P-13 is liable to be set aside. Moreover, since the Appellate Authority has also omitted to deal with the said argument. Consequently, the impugned orders are vitiated for lack of application of mind by the statutory authorities below, to the statutory necessity (*supra*), as such, the instant writ petition as preferred by the Gram Panchayat before this Court, and as, directed against the allowing by the Commissioner concerned, of the judgment debtor appeal bearing No. 228 of 1996, thus is allowed.

4. Be that as it may, assumingly if the learned Collector concerned may not have dealt with the said raised disputed question of title, which arose amongst the contesting litigants, yet the further pervasive infirmity which grips both Annexures P-13 and Annexure P-15, is comprised in the factum that despite the makings of alleged encroachments,



over the disputed lands by the private respondents, and such made alleged encroachments becoming required to be proven through a validly drawn demarcation report. Moreover, the said demarcation report being also enjoined to become lawfully tendered into evidence by its author, thus before the Collector concerned. However, even there is evident complete lack of valid admissible proof becoming adduced vis-a-vis the respondents concerned making encroachments upon the Panchayat land. As stated supra, the above would have only happened only upon the validly prepared demarcation report becoming validly proved, but through its author stepping into the witness box, and, subsequently, his becoming cross-examined by the aggrieved therefrom. However, evidently the above recourses remained unadopted, and, resultantly, as stated supra, no validly proof rather emanated in respect of alleged encroachments being made over the subject land, thus, by the private respondents.

5. Therefore, both the Annexures (supra), suffers from a gross legal fallacy and are required to be quashed and set aside and they are so done.

6. Consequently, the impugned Annexures P-13 and P-15, both require thus being set aside, so as to enable the contesting litigants, to appear before the learned Collector concerned, so as to enable him to make a lawful decision to the plea raised before him by the respondents in the eviction petition, that the Gram Panchayat concerned, has no valid title over the disputed lands. Moreover, the Collector concerned after restoring the lis to its original number, shall order the making of fresh lawful demarcation of



the disputed lands by an empowered revenue officer. Besides, he shall also ensure that the demarcation report becomes lawfully proven by its author. The decision on the remanded lis covering the above aspects, shall be made through a well made speaking order, but after hearing all affected persons concerned, and, shall also be made within four months hereafter.

7. Disposed of accordingly.
8. All pending applications, if any, stand disposed of accordingly.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(SUKHVINDER KAUR)**  
**JUDGE**

**09.05.2024**  
Satyawar

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No