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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-16876-2000
Date of decision:22.02.2024

GRAM PANCHAYAT

...Petitioner

Versus

STATE OF HARYANA AND ORS

...Respondents

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

Present: Mr. Alok Mittal, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. AG Haryana with
Mr. Saurabh Mago, DAG, Haryana.

Mr. Akshay Jindal, Advocate
for LR's of respondent No.5.

SURESHWAR THAKUR, J. (ORAL)

1. The Gram Panchayat Naya Gaon @ Khadar, on 5.5.1998 instituted a petition for eviction, cast under Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”) against Sarjan Singh and Sucha Singh.
2. Through a decision made on the said eviction petition, on 18.8.1998 (Annexure P-9), the Assistant Collector concerned, proceeded to grant the espoused decree of eviction to the Gram Panchayat concerned. The decreeing of the panchayat’s eviction petition, led the aggrieved therefrom, to institute an appeal thereagainst (Annexure P-10), before the learned Collector, Panchkula, who after dismissing the appeal bearing

No.57/13/Panch as embodied in Annexure P-11, proceeded to concur with the verdict of eviction, as became earlier rendered by the Assistant Collector concerned, (Annexure P-9).

3. Consequently, the respondents in the said appeal were led to institute a revision petition thereagainst before the Commissioner, Ambala Division, Ambala, who through Annexure P-13, after upsetting the verdicts respectively enclosed in Annexure P-9, and, in Annexure P-11, proceeded to non suit the Gram Panchayat concerned. Resultantly, the Gram Panchayat concerned, is led to through the instant petition, challenge Annexure P-13.

4. Though, in the face of the eviction petition cast under Section 7 of the Act, not being converted into a title suit, whereas, only upon conversion of the simplicitor eviction petition, cast under Section 7 of the Act, thereupon, alone the aggrieved from the orders respectively passed by the Assistant Collector concerned, and, by the Collector concerned, thus could rear a revision petition before the Commissioner concerned. Consequently, since evidently the eviction petition cast, under Section 7 of the Act remained unconverted into a title suit, thereby the aggrieved concerned, was not bestowed with any statutory leverage to proceed to cast a revision petition, before the Commissioner concerned, thus respectively against Annexure P-9 and P-11.

5. Though, in the light of the above, for want of valid jurisdiction becoming vested in the learned Revisional Authority concerned, the said annexure has no force, and, as such, is required to be quashed, and, set aside.

6. Nonetheless, in the larger interest of justice since there is apparently no validly drawn demarcation, inasmuch as, even if the said

demarcation report become drawn *qua* the disputed sites, yet when it is not revealed from the perusal of the records, that such a demarcation report became either lawfully tendered into evidence or it became lawfully proven. Though, thus its' becoming validly proven in accordance with law, thus would have enabled, this Court to conclude that therebys, there were either any encroachment made at the instance of the encroachers concerned, upon the disputed site, and/or, whether there was no encroachment created at the site, at the instance of the encroachers concerned.

7. Resultantly, for want of valid proof rather in the above manner, being adduced *qua* the demarcation report, as became drawn by the Demarcating Officer concerned, thereupon, the conclusions, as became arrived at respectively in Annexure P-9, and, P-11, whereby decrees of eviction were rendered against the respondents in the eviction petition, are but to be concluded to be completely infirm.

8. Be that as it may, in the larger interest of justice, for ensuring that only for want of a validly drawn demarcation report, thus the encroachers, upon the *Gair Mumkin Johar* lands, rather do not enjoy the benefits of the purported illegal encroachments as made thereons.

9. Resultantly, after allowing the instant writ petition, this Court quashes the impugned order annexure P-13, as well as the verdicts rendered respectively by the Assistant Collector concerned, and, by the Collector concerned, besides makes an order of remand to the Assistant Collector, concerned, who shall after restoring the lis to its original number, thus proceed to order for a fresh valid demarcation of the disputed site, thus being made by an empowered revenue officer. The report in respect of the said freshly made demarcation, shall be personally tendered into evidence

by the Demarcating Officer concerned, besides shall also be ensured to be proven in accordance with law. The decision on the remanded lis shall be positively made within 3 months hereafter, but after hearing all affected persons concerned.

(SURESHWAR THAKUR)
JUDGE

22.02.2024
Ithlesh

(LALIT BATRA)
JUDGE

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