

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

118 CWP-3993-2024
Date of Decision: 22.02.2024

Kulbir SinghPetitioner
Versus

State of Punjab and others
....Respondents

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

Present: Mr. B.S.Sewak, Advocate
for the petitioner.

Mr. Maninder Singh, Senior Deputy Advocate General, Punjab.

Sureshwar Thakur, J. (Oral)

On the petition for eviction cast under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, (hereinafter in short referred to the Act of 1961), the order Annexure P/10 was passed, whereby the petition (supra), as became preferred by the Gram Panchayat concerned, thus, became decreed.

2. An appeal thereagainst was instituted before the learned Appellate Authority concerned and the said appeal bearing No.229 of 2023, is stated to be yet sub *judice* before the Appellate Authority concerned.

3. Though, in the wake of the said sub *judice* appeal, this Court is not required to but till its termination through a verdict becoming drawn thereon, rather make any direction upon the Appellate Authority concerned, to bear in mind Annexure P/2, whereby the present petitioner may become endowed with title as owner *viz a viz* the disputed lands.

4. In addition also when the claim founded upto Annexure P/2, was to be laid only at the inception of the *lis*, in as much as, through the petitioner with his response to the said eviction petition, claiming title to the disputed lands, and as such is seeking to disentitle the Gram Panchayat concerned, to seek his eviction from the disputed lands, but the said recourse remained unadopted by the present petitioner, though, it was the one which was to be adopted.

5. Be that as it may, if in terms of Annexure P/2, Annexure P/5, has been passed and if, Annexure P/5 endows some rights of ownership *viz a viz* the present petitioner thus over disputed lands, thereby the ends of justice do require that even if, the said annexure, now brought to the knowledge of this Court, was not presented either before the Civil Court concerned, or before the Collector Concerned, who pronounced Annexure P/10, yet the claim for ownership over the disputed lands as becomes founded thereons, thus, cannot *prima facie* become completely eclipsed, as therebys but injustice would become perpetrated qua the present petitioner.

6. Therefore, in the profound wisdom of this Court, this Court deems it fit and appropriate to direct the present petitioner to if yet permissible, under law, thus seek an amendment to his reply filed to the eviction petition, whereby he may chose to convert the *simpliciter* eviction petition to a title suit. The said amendment application be filed within two weeks from today before the Appellate Authority concerned, who shall subsequently, in accordance with law, make such a decision as it deems fit.

7. If in the wisdom of the learned Appellate Authority concerned, an affirmative decision is to be made on the said amendment application, he may also, hereinafter, further statutory proceedings as deemed fit, in accordance with law, shall be drawn, in as much as, the Appellate Authority concerned, may after quashing the impugned order of eviction Annexure P/10, thus proceed to make a remand of the *lis* to the Collector concerned, rather to enable the conversion of the eviction petition into a title suit, so that, issues on the contested pleadings are raised, and also thus evidence adducing, discharging onus becomes also cast on the relevant issues.

8. In consequence, all the above be ensured to be completed within three months and subsequently, if an order of remand is made to the Collector concerned, thereupon the Collector concerned, is also directed to within six months of his receiving the *lis* on remand, thus terminate the remanded *lis*, through a valid speaking decision becoming made thereon, but within six months of his receiving of remanded *lis*, from the Appellate Authority concerned.

9. Disposed of along with pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

22.02.2024
Varinder Prashad

(LALIT BATRA)
JUDGE

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