

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

CWP-2804-1996

Date of Decision : 21.02.2024

JAI DAYAL (DECEASED) THROUGH LR.s. AND ORS.

.....Petitioners

Versus

THE COMMISSIONER GURGAON DIVISION AND OTHERS

.....Respondents

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

Present : Mr. Ajay Jain, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. P.P.Chahar, Sr. DAG, Haryana and
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (Oral)

1. The plaintiffs, petitioners herein filed a declaratory suit bearing No. 285/VCL, under the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to Haryana) before the Assistant Collector First Grade, Narnaul alleging that as per the Jamabandi for the year 1979-80, the land consisting in Killa No.31//22/2, 23/1, 36//2, Kitta 3, measuring 13 kanala 4 marla situated in village Thanwas is owned and possessed by them and the respondent-Gram Panchayat has nothing to do with its ownership.

2. Through an order made thereons, on 15.07.1991 (Annexure P-2), the learned Assistant Collector declined the espoused declaratory decree to the plaintiffs.

3. Feeling aggrieved thereagainst, the plaintiffs filed an appeal before the Appellate Authority concerned. However, through an order made on 11.01.1995 (Annexure P-3), the said appeal became dismissed.

4. Dis-satisfied from the afore, the plaintiffs preferred revision petition before the Revisional Court concerned. However, the Revisional Court concerned, finding no merit in the revision petition dismissed the same.

5. The drawing of the above concurrent orders of eviction, have caused pain to the petitioners herein and have led them to institute thereagainst the instant writ petition before this Court.

6. On a reading of the impugned Annexure P-2, Annexure P-3, and, Annexure P-5, as became respectively drawn by the Assistant Collector concerned, and, by the Collector, concerned, and, by the Revisional Court concerned, on the apposite declaratory suit, on the appeal, and on the revision, it is but expressly clear that all of them were sketchily, and, cryptically drawn, thus without any issues being struck, despite a dispute becoming raised by the plaintiffs therein vis-a-vis their ownership and possession over the disputed lands.

7. Contrarily, it appears, that merely on a cursory reading of the records, hence respectively through Annexures P-2, P-3, and, P-5, the statutory authorities below, rather in a most summary manner declining the espoused declaratory decree to the plaintiffs, nor any issue became struck on the contentious pleadings laid before the authorities concerned, rather it was imperative for the authorities concerned, to

formulate issues for the relevant evidence adducing onus becoming cast upon the litigants concerned.

8. The reason for making the above conclusion stems from the factum, that in the special statute (*supra*), there is no specific procedure regulating the trial of the petitions, as become laid before the statutory authorities constituted therein, thereby but obviously the procedure for regulating the entering upon trial of a motion laid under the statute (*supra*) before the statutory authorities concerned, but is regulated by the provisions as cast under the CPC.

9. The manner of adjudication being made, upon, the said motion(s) by the statutory authorities below, is required, to be deprecated, as it became enjoined to after inviting response(s) from the respondent concerned, to thereafter strike issues on the contested pleadings, and, to thereafter formulate issues whereafter it became imperative, upon them to cast the evidence adducing onus, upon the litigants concerned.

10. Paramountly since the above did not happen. Therefore, as stated (*supra*), but in an slipshod and hasty manner besides with *prima facie*, ill informed reason, the declaratory suit, appeal thereagainst and revision petition, rather became dismissed.

11. Consequently, the petition is allowed, and, the impugned orders Annexure P-2, P-3 and P-5 are quashed and set aside, and, the *lis* is remanded to the Assistant Collector concerned, who shall on receiving the same, shall restore the *lis* to its original number, and, it is further directed that he shall after inviting a response on the said petition/declaratory suit from the respondent concerned, to thereafter

strike issues, and to subsequently permit the aggrieved litigant(s) concerned, to adduce evidence thereons.

12. Subsequently, a valid decision, in accordance with law, shall be made on the said petition/declaratory suit, by the Assistant Collector concerned, within a period of three months but after hearing all affected persons concerned.

(SURESHWAR THAKUR)
JUDGE

21.02.2024
kavneet singh

(SUKHVINDER KAUR)
JUDGE

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