



In the High Court of Punjab and Haryana at Chandigarh
[121]

CWP-6180-2021
Date of Decision: 23.05.2024

BHAGAT SINGH AND OTHERS **PETITIONERS**
VERSUS

JOINT DEVELOPMENT COMMISSIONER IRD RURAL
DEVELOPMENT AND PANCHAYATS DEPARTMENT,
PUNJAB AND OTHERS**RESPONDENTS**

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

Present: Mr. N.P.S. Mann, Advocate for the petitioners.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The learned counsels appearing for the parties today before this Court, are, *ad idem*, that the concurrent judgments passed respectively by the learned Collector concerned (Annexure P-1), and, by the learned Commissioner concerned (Annexure P-2), whereby, both non-suited plaintiffs, in respect of the disputed lands, thus, do suffer from a patent illegality, inasmuch as, despite the said petition, being required to be tried in a manner alike the trial, as becomes embarked upon on a civil suit, thus, by the jurisdictionally competent Civil Court concerned, yet, the trial as became entered upon the said apposite civil suit, and, on the appeal, as became arose therefrom, rather becoming not done in the said manner.

2. Therefore, the learned counsels appearing for the parties today before this Court are further, *ad idem*, that the procedure, as contemplated in the Code of Civil Procedure (hereinafter to be referred to as “the *CPC*”), for a well trial being made on the said declaratory suit by the Collector concerned,

thus required that not only issues being framed on the contentious pleadings of



the parties, but also the evidence adducing discharging onus was to be cast upon the litigant concerned, and, thereafter, the litigant concerned, was also required to be granted a fullest opportunity to adduce thereons his evidence, thus on the relevant issues. Moreover conspicuously separate findings on each of the such issues were to be rendered.

3. The above made *ad idem* statement, at the bar, by the learned counsels appearing for the parties before this Court, are in terms of various verdicts pronounced by this Court, whereby, this Court has declared that the absence of any non-obstante clause in the Punjab Village Common Lands Act, 1961 (hereinafter to be referred to as “the Act of 1961”), whereby, there is ouster of the regulatory procedural mechanism, as embodied in the 'CPC' for regulating the trial of civil suits by the Civil Courts of competent jurisdiction, thereby, the provisions of the 'CPC', are to be applied, while the learned Collector concerned, makes a trial upon a civil suit, as becomes laid before him under Section 11 of the 'Act of 1961'.

4. Conspicuously in the face of the above made *ad idem* statement, the said procedure has been visibly departed from. In consequence, to ensure that the said procedure becomes strictly adopted by the learned Collector concerned, this Court is of the view that, as such, the concurrently made decisions (impugned annexures) are required to be quashed, and, set aside.

5. In aftermath, after allowing the writ petition, thus, on the above evident infirmity, ingraining the impugned Annexures P-1 and P-2, the said Annexures are quashed and set aside. Moreover, this Court makes a remand of the *lis* to the Collector concerned, who after restoring the same to its original number, shall proceed to after striking issues on the contentious pleadings of



concerned, and, also grant an opportunity to the litigant concerned, to adduce his/her evidence thereons, but an opportunity of adducing rebuttal evidence be also granted to the Gram Panchayat concerned.

6. Amendments, if any, if asked be also lawfully considered to be allowed and the consequent thereto issues be also struck. The remanded *lis* be decided lawfully through a well reasoned speaking decision being made thereons. Moreover, separate findings be rendered on each of the issues, but after well appreciating the thereons adduced evidence.

7. Disposed of accordingly along with all pending application(s), if any.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

May 23, 2024
ANJAL

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