

In the High Court of Punjab and Haryana at Chandigarh

(119)

**CWP No. 9742 of 2024
Date of Decision: 30.4.2024**

Kirpal Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

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

Present: Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. Earlier to the filing of the instant writ petition before this Court, CWP No. 10911 of 1989 became preferred by one Lal Singh (deceased) through his LRs. In the said petition, filed by said Lal Singh (deceased) through his LRs, a grievance was ventilated that despite separate facts, and, separate evidences becoming embodied in the separate statutory appeals, yet the said statutory appeals becoming decided through a common verdict, whereas, separate verdicts were required to be passed on each of the separate appeals, thus respectively embodying separate facts, and, separate causes of action.

2. On the said writ petition, a verdict Annexure P-4 was passed. The operative part of Annexure P-4 is extracted hereinafter.

“The Gram Panchayat filed applications under Sections 7 and 11 of the Act for ejectment of the petitioners and for declaration of its title. The petitioners opposed the applications by asserting that the land in dispute was allotted to their predecessors by Maharaja Narinder Singh of Patiala State. The Collector decided the application by holding that a part of the

land (referred to in detail in his order) vests in the Gram Panchayat and accordingly, directed their ejectment from this part of the land. The petitioners filed an appeal before the Additional Director, Panchayats, Punjab (exercising the powers of Commissioner under the Act. The Additional Director, Panchayats, clubbed the appeal with other appeals filed against the Gram Panchayat and decided them by a common order passed in the case of Lal Singh without adverting to or dealing with the pleas raised by the petitioners in their appeals. The Director, apparently failed to discern that though the petitioners and Lal Singh denied the ownership of the Gram Panchayat on the plea that they have been in possession before 1949-1950, the evidence adduced was entirely different, namely, jamabandis and revenue records. The appellate authority though well within its right to club the appeals was required to advert to and deal with the pleadings and evidence of each case separately. The appellate authority, apparently fell into this error as the defence in all appeals emanates from a plea that the petitioners are in possession before 1950.

In view of what has been stated hereinabove, the writ petitions are partly allowed, the order dated 30.03.1989 is set aside and the matter is remitted to the Director, Panchayats, Punjab, to decide the matter afresh and in accordance with law, within three months from receipt of a certified copy of this order. The Director, may if an application is filed, allow the petitioners or the respondents, to lead additional evidence in support of their pleas.

Parties are directed to appear before the Director, Panchayats, Punjab, on 28.01.2011”

3. Pursuant to the said verdict, the Appellate Authority concerned, drew Annexure P-5 wherebys there was yet a blatant breach made by the Appellate Authority concerned, Though through Annexure P-5, a common order of remand was made to the remandee authority concerned, but the

remandee authority concerned, also did not yet apply its mind vis-a-vis the necessity of separately preferred suits/petitions becoming required to be separately decided, as each of them contained separate causes of action, rather it made a common verdict on such petitions/suits, Annexure P-6. The aggrieved from Annexure P-6, preferred an appeal before the Appellate Authority concerned.

4. It is fairly stated, at the bar, by the learned counsel for the petitioners as well as by the learned State counsel, that though each of the separate statutory appeals became separately decided by the appellate authority concerned. Nonetheless, it appears, that the appellate authority concerned, did not care to yet make application of mind to the espousal made before it by the aggrieved appellants qua their being a necessity, thus in all the separate petitions/suits rather of issues being struck on the contentious pleadings of the contesting litigants. Moreover, the appellate authority concerned, also did not care to notice the further defect, that on such formulated issues, in each of the separate suits/petitions, there was also an imperative requirement cast, upon the Collector concerned, to permit the litigants concerned, to adduce their respective evidences thereons.

5. It is but in the wake of the above ill application of mind by the appellate authority concerned, to the shortcomings or fault-lines, which occurred in the common decision, as, made by the Collector concerned, thus in all the separate petitions/suits, whereas, each of the separate petition/suit rather containing separate, and, distinct causes of action, that resultantly thereby the impugned Annexure P-10, becomes an ill-informed decision, besides is construed to be rendered with a gross non application of mind to the above imperative necessity(ies).

6. In consequence, the impugned orders are quashed, and, set aside.

The matter is remitted to the Collector concerned, to after framing separate issues in each of the separate petitions/suits, to thereafter permit the litigants concerned, to adduce their respective evidences thereons. Moreover, separate decisions, thus shall be recorded on each of the separate petitions/suits, but after hearing all the affected persons concerned. The said decision be ensured to be made within six months from today.

- 7. The instant petition stands disposed of accordingly.
- 8. Pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

April 30, 2024
Gurpreet

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