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

CWP-18822-2016 (O&M)

Date of Decision : 12.03.2024

GRAM PANCHAYAT MANNA TALWANDI

.....Petitioner

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present : Mr. Manish Kumar Singla, Advocate with
Mr. Sohan Lal, Advocate and
Ms. Sonika, Advocate
for the petitioner.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)

1. The plaintiffs, respondents No.4 to 6 herein filed an application under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961, before the Collector concerned, against the Gram Panchayat concerned, seeking the espoused decree of theirs being declared the owners in possession of Arajhi Khewat/Khatoni No.406/547 Khasra No.6//21(6-7), 22(4-4), 23/1(2-9), 15//8/2(3-14), 20//1(8-0), 2(8-0), 3(8-0), 8(8-0), 9(8-0), 10/1(4-0), 48//16/2(2-0), 17/1(3-11).

2. Through an order made thereons, on 3.11.1993 (Annexure P-13), the learned Collector concerned, granted the espoused declaratory decree to the plaintiffs, whereby they became declared as the lawful owners of the disputed lands.

3. Feeling aggrieved thereagainst, the Gram Panchayat filed an appeal before the Appellate Authority concerned.

4. Through an order made, on 23.5.2016 (Annexure P-16), on the apposite appeal, the same became dismissed and the order of the learned Collector concerned, was upheld.

5. The drawing of the above concurrently made verdicts (Annexures P-13 and P-16), by the learned Collector concerned, and, by the Appellate Authority concerned, has caused pain to the petitioner herein and has led it to institute thereagainst the instant writ petition before this Court.

6. On a reading of impugned orders Annexure P-13, and, Annexure P-16, as became respectively drawn by the Collector concerned, and, by the Appellate Authority concerned, thus respectively on the apposite title suit, and on the statutory appeal, it is but patently clear that both 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 over the disputed lands.

7. Contrarily, it appears, that merely on a cursory reading of the records, hence through Annexure P-13, the Collector concerned, rather in a most summary manner granted the espoused declaratory decree to the plaintiffs, and, further in an appeal being preferred thereagainst by the Gram Panchayat, the Appellate Authority concerned, through Annexure P-16, dismissed the said appeal.

8. From a close reading of both the above Annexures, it appears that neither any issue became struck on the contentious pleadings laid before the authorities concerned, nor any evidence discharging onus became cast thereons, whereas, it was imperative for

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

9. The reason for making the above conclusion stems from the factum, that since 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, as, the provisions carried in the CPC remain unousted.

10. However, 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(s) 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 discharging onus, upon the litigants concerned.

11. Paramountly since the above did not happen. Therefore, as stated (*supra*), but in a slipshod and hasty manner besides with a *prima facie*, ill informed reason, the verdict(s) (*supra*) became passed.

12. Consequently, the petition is allowed, and, the impugned order (Annexure P-13) passed by the Collector concerned, as well as, the impugned order Annexure P-16 are quashed and set aside, and, the *lis* is remanded to the Collector concerned, who 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/suit from the respondent concerned, thus thereafter strike the relevant issues, and,

subsequently will permit the aggrieved litigant(s) concerned, to adduce the evidence thereons.

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

14. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

12.03.2024

Ithlesh

(LALIT BATRA)
JUDGE

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