



In the High Court of Punjab and Haryana at Chandigarh
[114]

CWP-18901-2019 (O&M)
Date of Decision: 10.05.2024

JASPAL SINGH AND OTHERS PETITIONERS
VERSUS

STATE OF PUNJAB AND OTHERSRESPONDENTS

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

Present: Mr. Bhriugu Dutt Sharma, Advocate for the petitioners.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Ish Puneet Singh, Advocate for respondent No.7.

SURESHWAR THAKUR, J. (ORAL)

1. As prayed for, by the learned counsel for the parties, the main case i.e. *CWP-18901-2019*, is preponed from 05.08.2024, to today itself and is taken up on board for hearing.

2. One of the co-petitioners in the instant writ petition, is the plaintiff in *Civil Suit No.CS/1246/2016 (Annexure P-4)*, which was instituted against the defendants therein, who are however not impleaded as party-respondents, in the instant writ petition.

3. The relief claimed in the said suit was for the rendition of a decree of permanent prohibitory injunction against the defendants therein, for therebys, theirs not undertaking any construction activities or making encroachments upon Gair Mumkin Pond, existing upon the suit khasra numbers.

4. The learned counsels appearing for the parties today before this Court are, *ad idem*, that the judgment and decree (Annexure P-4), became passed on the said civil suit, wherebys, the plaintiff's suit for the said relief

became decreed to the extent as mentioned in the decree sheet.



5. Furthermore, the learned counsel appearing for the contesting litigants are also, *ad idem*, that the said decree has acquired conclusive and binding effect, as no appeal thereagainst had been instituted by the aggrieved defendants, before the learned First Appellate Court. Resultantly therebys, judgment and decree (Annexure P-4), was required to be executed, through the plaintiff, who is one of the co-petitioners in the instant writ petition, thus instituting an execution petition before the Court of first instance. However, such an execution petition has not been filed.

6. Nonetheless contrarily, the instant writ petition has been filed before this Court, claiming therein relief, that the said judgment and decree enclosed in Annexure P-4, be directed to be enforced through a mandamus being made upon the police officials concerned, to provide police assistance for the relevant purpose, especially given despite the said request being made upon them by BDPO concerned, yet rather the said request remaining unheeded.

7. The unassailed judgment and decree of permanent prohibitory injunction enclosed in Annexure P-4, when has attained conclusive and binding effect, therebys, the plaintiff, who is one of the co-litigants, in the instant writ petition, and, who appears to file a representative suit, thus on behalf of all the village proprietary body, when has not yet filed an execution petition, for therebys, seeking the execution of Annexure P-4, rather has chosen to along with the other co-petitioners, thus institute the instant writ petition before this Court with the prayer(supra) therein. Resultantly, in the wake of the above, the present writ petition is not maintainable.

8. Therefore, in case this Court proceeds to assign the relief(supra) to the petitioners, despite the fact that one of the co-petitioners in the plaint, is



a valid recipient of a binding and conclusive verdict as enclosed in Annexure P-4, thereby, this Court will be assuming onto itself the jurisdiction of the learned Executing Court, which thus, at this stage, rather would be grossly impermissible

9. Be that as it may, for ensuring that complete justice is done to the plaintiff decree holder, who is one of the co-petitioners in the instant writ petition, as such, as prayed for, by the learned counsel for the petitioners, leave is granted to the plaintiff/co-petitioner, namely, Jugal Kishore, the recipient of the conclusive decree of permanent prohibitory injunction (Annexure P-4), to forthwith institute an execution petition before the learned Executing Court concerned, for thereby, enabling the latter to make an efficacious and successful execution of judgment and decree (Annexure P-4), thus, against the defendants in the civil suit concerned.

10. The said application for execution petition be forthwith filed, and thereupon, the learned Executing Court may its discretion, upon, the judgment debtors/defendants in the said decree, rather resisting or obstructing the warrant(s) officer or the bailiff, in his making successful executions of the decree of prohibitory permanent injunction, thus on an application cast under Section 151 CPC, becoming filed before it by the plaintiff/decreed holder, rather pass orders upon the jurisdictional SHO concerned, thus for the providings of police assistances to the warrants officer or to the bailiff, so that the above ensure the successful execution of the apposite decree.

11. In case the said directed police help is not provided to the warrants Officer or the bailiff by the jurisdictional SHO concerned, despite orders to the said effect, being passed by the learned Executing Court concerned, thereupon, it is open to the learned Executing Court to make a



reference to this Court for proceedings for contempt being drawn against the errant jurisdictional SHO concerned. The learned Executing Court concerned, may also before consigning the execution petition to the records, make a order that the decree of permanent prohibitory injunction stands satisfied, but strictly in terms of the judgment and decree (Annexure P-4).

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

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

May 10, 2024
ANJAL

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