



CWP-20039 of 2015

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP-20039 of 2015(O&M)
Date of decision:- 02.08.2024**

Lal Singh & ors.

...Petitioners

Versus

State of Punjab and others

...Respondents

***CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA***

Present:- Dr. Hardeep Singh, Advocate for Mr. L.S. Mann, Advocate
for the petitioners.

Mr. Maninderjit Singh Bedi, Addl.A.G. Punjab

Mr. V.K. Sandhir, Advocate
for respondent No. 3

SURESHWAR THAKUR, J. (Oral)

1. The predecessor-in-interest of the petitioners herein namely one Surjan Singh filed a declaratory suit bearing No. DDP (11)-T-24 against the Gram Panchayat Nalini before the Collector concerned. The said petition became filed under Section 11-D of the Punjab Village Common Lands (Regulation) Act, 1961. In the said suit, it was pleaded that he was owner of the land measuring 47 kanals 3 marlas comprised in Khewat No. 161, Khatoni No. 199, Khasra No. 12/24 (9-2), 25min (4-0), 22//1(8-0), 23//14 (10-0), 5 (8-0), 16/2 (1-16), 17//1 (6-5) situated in the area of village Nalini, Tehsil Sirhind, District Patiala.

2. Through an order made on 11.12.1981 (Annexure P-1) on the apposite suit, the learned Collector concerned declared the predecessor-in-interest of the petitioners to be owner of the said disputed land.



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3. Feeling aggrieved, Gram Panchayat Nalini filed an appeal thereagainst before the Appellate Authority concerned. Through an order made thereons on 31.10.1986 (Annexure P-2), the said appeal became allowed and the order passed by the Collector concerned became quashed and set aside.

4. Feeling dis-satisfied from the afore, the legal representatives of Surjan Singh preferred CWP No. 6671-1986 before this Court. The said suit became partly allowed and the order dated 31.10.1986, passed by the Appellate Authority concerned became set aside, and the *lis* was remanded to the Appellate Authority, for adjudication afresh in accordance with law within a period of three months.

5. The remanded *lis* was decided by the Appellate Authority concerned vide order dated 31.05.2013 (Annexure P-4), and the appeal filed by respondent No. 3-Gram Panchayat was accepted and the order passed by the Collector concerned was set aside.

6. The drawing of the afore order, as passed by the Appellate Authority concerned, has caused pain to the petitioners herein and has led to institute thereagainst the instant writ petition before this Court.

7. On a reading of the impugned Annexure P-4, as became drawn by the Appellate Authority concerned besides a reading of Annexure P-1, as drawn by the Collector concerned, it is but expressly clear that the same were sketchily, and, cryptically drawn, thus without any issues being struck, despite a dispute becoming raised by the concerned, vis-a-vis their ownership and possession over the disputed lands.

8. Contrarily, it appears, that merely on a cursory reading of the records, hence through the impugned Annexure P-4 besides through



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Annexure P-1, the statutory authorities below, rather in a most summary manner declined the espoused declaratory decree to the concerned, nor any issue became struck on the contentious pleadings laid before the authorities concerned, whereas rather 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 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.

10. 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.

11. 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 appeal (supra) became dismissed.

12. Consequently, the petition is allowed, and, the impugned order Annexure P-4 besides the order (Annexure P-1), as passed by the Collector concerned is quashed and set aside, and, the *lis* is remanded to the Collector concerned, who shall on receiving the same, shall restore the *lis* to its



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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.

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

(SURESHWAR THAKUR)
JUDGE

02.08.2024
G Arora

(SUDEEPTI SHARMA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>