

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CWP-14646-2023

Date of Decision: 20.04.2024

Narinder Singh (now deceased) through LRs

....Petitioners

Versus

Director Rural Development and Panchayat Punjab and others

....Respondents

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

Present: Mr. Satbir Rathore, Advocate
for the petitioners.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab
for respondents No.1 and 2.

Mr. M.S.Dhami, Advocate
for respondent No.3 – GP.

Sureshwar Thakur, J. (Oral)

1. The present petitioner filed a declaratory suit under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961, (hereinafter in short to be referred as 'the Act of 1961') before the Collector concerned. The said petition became decided on 04.03.2014 (Annexure P/24). Through Annexure P/24, the espoused declaratory relief became granted to the present petitioner. However, the Gram Panchayat of village Kadari Chak, Police Station Tanda, Tehsil Dasuya, District Hoshiarpur, chose to challenge Annexure P/24, through its raising thereagainst a statutory appeal, before the

appellate authority concerned. The appellate authority concerned, through Annexure P/26 after quashing and setting aside Annexure P/24, thus declined the espoused declaratory decree to the present petitioner. Consequently, the present petitioner is led to make a challenge to Annexure P/26, through constituting the instant writ petition before this Court.

2. The conspicuous and relevant fact, thus relating to the relevant contest which arose amongst the contesting litigants, rather related to the validity of the sale deed, which became executed in favour of the present petitioners', predecessor in interest, thus by his vendor. Though, in respect of the contention as became raised by the present petitioner before the Collector concerned, and as related to the said registered deed of conveyance becoming respectively well-executed or becoming well ably executed rather interse the predecessor in interest of the present petitioner, with the latters vendor, became rested on the ground, that since from the lawful holdings of the said vendor, thus, *pro rata* cuts becoming made, and subsequently, the said lands wherefrom *pro rata* cuts were made the Consolidation Officer concerned, becoming reserved *viz a viz* the Gram Panchayat concerned. Resultantly, thereby the right of seeking repartition thereof, became canvassed to inhere in the vendor concerned, but the said espousal, became contested by the Gram Panchayat concerned.

3. The said acerbic issue which emerged amongst the contesting litigants and the respondents, but obviously still required that the relevant issue in respect thereof becoming stuck and also required that the evidence adducing discharging onus becoming encumbered, upon, the litigant(s) concerned.

4. A deep reading of Annexure P/24 reveals, that though a claim as raised under Section 11 of the Act of 1961, is similar and analogous, to a declaratory suit filed before the Civil Court of competent jurisdiction, and, thereby, though the regulatory procedure relating to the trial of a civil suit, is to be also adopted, upon, the making of a trial of a declaratory claim raised under Section 11 of the Act of 1961, before the Collector concerned, especially given, there being no specific regulatory procedure for regulating the trial of a petition cast under Section 11 of the Act of 1961, nor also when the apposite regulatory provisions embodied in the CPC, rather become ousted through a specific ousting provision existing, thus in the Act of 1961. However, there been a gross departure from the procedure to become opted, rather by the Collector concerned, in the latter making trial upon, a petition cast under Section 11 of the Act of 1961, in as much as, the Collector concerned, omitted to strike all the relevant issues, arising from the contentious pleadings of the litigants concerned, besides omitted to permit the litigants concerned, to discharge the evidence adducing onus on such struck issues.

5. The salutary purpose behind the necessity qua adopting the regulatory procedure for the trial of a petition cast under Section 11 of the Act of 1961, thus being tandem with the apposite procedure to become adopted by the Civil Court of competent jurisdiction viz-a-viz the trial to be made upon a civil suit, thus is embedded in the solemn principles of natural justice, besides is to ensure that thereupon the fullest opportunity is assigned to all the litigants concerned to lawfully prove, in the manner enjoined by the Evidence Act, rather the apposite issues which become struck on their respective contentious

pleadings.

6. Therefore, the non-adoption of the said regulatory procedure by the Collector concerned, leads this Court to quash Annexure P/24. The quashing of Annexure P/24 by this Court, however may not be construed, qua thereby this Court rather upholding Annexure P/26 as become made on the relevant statutory appeal, thus by the Appellate Authority concerned.

7. The reason is but simple that despite the above gross infirmity, thus gripping Annexure P/24, yet the appellate authority concerned, rather than curing the said infirmity through making an order of remand, upon, the Collector concerned, for thereby ensuring the adoption of the above regulatory procedure for the making of valid trials of the plaint/petition, cast under Section 11 of the Act of 1961, rather chose to reverse Annexure P/24. Consequently, even Annexure P/26 is required to be quashed and set aside, thus for non conformity or for omission on the part of the appellate authority, to undo the gross blatant error as became, thus in the afore manner, rather committed by the Collector concerned, whereby the declaratory claim as espoused in the declaratory petition became assigned to the petitioner therein.

8. In consequence, after allowing the writ petition, both Annexures P/24 and P/26 are quashed and set aside. In sequel, the entire *lis* is remanded to the Collector concerned, who after striking issues as arise from the contentious pleadings of the contesting litigants, thus shall encumber, upon, the litigant(s) concerned, the obligation to adduce the discharging evidence thereons. The Collector concerned, shall ensure that the mode of proof of documents shall be done in the manner envisaged in the Evidence Act. The decision on the remanded *lis* is directed to be made within a period of six

months from today, but after hearing all the affected persons concerned.

9. It is open to the present petitioner to, within two weeks from today, institute an application seeking the making of interim orders, thus restraining the Gram Panchayat concerned, from during the pendency of the remanded *lis*, rather making interference in the suit property/suit land. However, only till the institution of the said application, but within two weeks from today, the parties are directed to maintain status quo in respect of the disputed lands. The said application shall be lawfully decided within a period of one month from the date of its making, but after hearing all the affected persons concerned. The decision on the remanded *lis* shall be made by the Collector concerned within six months from today, but after hearing all the affected persons concerned.

10. Disposed of accordingly along with all pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

20.04.2024
Varinder Prashad

(LALIT BATRA)
JUDGE

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