

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

203

CWP No.23734 of 2019

Date of Decision: 15.02.2024

Gram Panchayat Naraingarh Tambuan

.....*Petitioner*

Versus

State of Punjab and Ors.

.....*Respondents*

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

Present: Mr. Nakul Sharma, Advocate
for the petitioner.

Mr. Maninder Singh, Sr.DAG, Punjab.

Mr. Jatinder Singla, Advocate
for respondents No.13 to 15.

Mr. H.P.S. Ghumman, Advocate
for respondents No.19 and 20.

SURESHWAR THAKUR, J (ORAL)

1 Learned counsel appearing for the contesting litigants are
ad idem that impugned order Annexure P-6 is in complete derogation to the
verdict recorded by this Court on 22.09.2015 (Annexure P-5) whereby the
said CWP became decided with the hereinafter extracted observations:-

*“The Appellate Authority may accord one opportunity
each to the parties to produce only documentary evidence, if
any, in support of or to controvert the above mentioned
documents subject to the further caveat that the petitioners
shall be required to furnish cash security or Bank Guarantee
towards estimated annual lease amount of the land, as may be
assessed by the Collector as an interim measure from the year
2011 onwards, i.e., when the appellate authority previously
allowed the appeal. They shall furnish such security within*

one month and then only the appeal shall be decided afresh on merits.”

2 In the light of the said *ad idem* statement, thus premised, qua despite the above extracted operative part of the order rather specifically conferring remand jurisdiction exclusively upon the Appellate Authority concerned, yet the latter proceeding to pass the impugned order Annexure P-5, whereby the case has been further remanded to the Collector concerned. Resultantly, therebys there has been an impermissible sub delegation of the specific exclusive remand jurisdiction through supra, upon the Appellate Authority.

3 Therefore, in view of the above *ad idem* statement made at the bar by the counsel appearing for the petitioner and for the respondents, this Court quashes Annexure P-6. Nonetheless, a direction is made upon the Appellate Authority concerned to make complete compliance of the above extracted operative part of the order carried in Annexure P-5. The Appellate Authority concerned is also directed to elicit a report from the Collector concerned in respect of the estimated annual lease amount of the disputed land so that on the basis of the said elicited report the litigant concerned becomes enabled to furnish cash security or bank guarantee, thus in terms thereof. The said report be asked for within a week from today and the Collector concerned is directed to mete compliance to the said direction and is also directed to make the said estimation within a week thereafters. Subsequently the Collector concerned is directed to expeditiously submit the said report to the Appellate Authority concerned, whereafters, the litigant concerned is directed to within a shortest possible time furnish bank guarantee or cash security equivalent to the estimated annual lease amount as carried in the report of the Collector. Furthermore, the Appellate

Authority concerned is directed to within two months thereafter make a valid speaking decision on the relevant subject after hearing all affected persons concerned.

4 Since the main case itself has been decided, thus, all the pending application(s), if any, are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUKHVINDER KAUR)
JUDGE

15.02.2024
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No