

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

CWP No.21395 of 2024 (O&M)

Date of Decision: 12.09.2024

Resham Singh (since deceased) through his LR

.....Petitioner.

Versus

State of Punjab and others

.....Respondents.

CORAM: ***HON'BLE MR. JUSTICE G.S. SANDHAWALIA***
 HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Sherry K. Singla, Advocate
 for the petitioner.

Ms. Arundhati Kulshreshtha, AAG, Punjab.

Mr. Gurmanpreet Singh, Advocate
for respondent No.7-Gram Panchayat.

G.S. SANDHAWALIA, J.(Oral)

CM No.14616-CWP of 2024

This application has been filed on behalf of the petitioner for seeking permission to place on record the proceeding book/resolution/lease agreement as Annexure P-24.

The application is allowed and document Annexure P-24 is taken on record.

CWP No.21395 of 2024

Challenge in the present writ petition filed under Article 226/
227 of the Constitution of India is to the orders dated 09.02.2024



(Annexure P-18) passed by respondent No.6, dated 19.04.2024 (Annexure P-19) and dated 30.04.2024 (Annexure P-20) passed by respondent No.5 and the proceedings dated 06.07.2024 (Annexure P-22) conducted by respondent No.7. The net result is that in the said orders a sum of Rs.8,96,820/- is sought to be recovered from the petitioner after giving him the benefit of Rs.7,50,000/- as compensation for the setting up of the infrastructure of the brick-kiln as installed on the land which had been leased to Resham Singh (since deceased) as per the proceedings-books under resolution, now placed on record vide Annexure P-24.

2. It is not disputed that the said orders have been passed in compliance of an earlier order passed by the Co-ordinate Bench in **CWP No.23301 of 2023** titled as **Resham Singh (since deceased) through his LR Versus State of Punjab and others** on 17.10.2023 (Annexure P-17). In principle, the right of the petitioner to continue with the leased land was put to naught and the relief granted was that the Collector was to make the quantification of the amount for the already installed brick-kiln manufactory at the site concerned and also keep in mind the lease amount which was due in terms of the lease agreement and the *mesne profits* after termination of his lease for the period when the petitioner remained in illegal occupation of the disputed lands. The needful had been done after hearing all concerned. It is in such circumstances, the amount has been quantified.

3. The objection of the petitioner as such that on an earlier point of time, the value of the material including chimney and brick-kiln

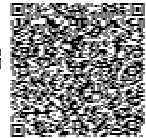


infrastructure and manufactory installed at the brick-kiln was Rs.45,33,759/- way back on 23.12.2014 and therefore, scrap value at Rs.7,50,000/- was not justified at that point of time. The impugned order (Annexure P-20) would gone to show that the mesne-profits/compensation/lease money has been assessed as Rs.16,46,820/- from 2013-14 to 2023-24 regarding the land in question.

4. It is a matter of record that the petitioner had been directed to be evicted vide the petition instituted on 05.08.2020 and the eviction order was passed on 17.08.2022 (Annexure P-3) which was duly upheld on 06.06.2023 (Annexure P-14) by the Appellate Authority. The said orders were subject matter of consideration in an earlier round of litigation which order has become final *inter-se* the parties.

5. We are of the considered opinion that the issue as such would lead to disputed question of fact as to the valuation of the material. Admittedly, the brick-kiln was lying closed for the last one decade and in such circumstances, apparently, the State has reduced the value of machinery as determined earlier to which the petitioner is raising objections. Similarly, the amount of quantification of the outstanding *mesne profits* is also being contested, i.e on the higher side. These are the matters of evidence as such. The petitioner would have to lead evidence to show that the value of the machinery installed on the leased land is on higher side as per valuation reports as he has now to remove it.

6. In such circumstances, keeping in view the settled principle of law that the writ Court cannot go into the disputed question where evidence



is to be led, we are of the considered opinion that it is open to the petitioner to raise challenge to the impugned orders by resorting to the appropriate proceedings before the Court of competent jurisdiction, i.e Civil Court.

7. Learned counsel for the petitioner has also taken the instructions regarding the aforesaid aspect. The State counsel and learned counsel for the Gram Panchayat also have no objection to such line of action.

8. Resultantly, we dispose of the instant writ petition with the liberty aforesaid.

9. Needless to say that there is no stay order continuing in favour of the petitioner and it is open to the Gram Panchayat and State to execute the eviction orders.

(G.S. SANDHAWALIA)
JUDGE

September 12, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No