

121 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

CWP-722-2024

Date of Decision : 15.01.2024

RAJBIR JAIN AND ANOTHER

....Petitioners

Versus

STATE OF HARYANA AND ORS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Ajay Kumar Gupta, Advocate
for the petitioners.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

SURESHWAR THAKUR, J. (Oral)

1. The instant writ petition is directed against Annexures P-1 and P-2, whereby the Assistant Collector, First Grade, Karnal, upon, receiving a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter for short called as the 'Act of 1961') proceeded to issue summons or a show cause notice, upon, the present petitioners, to thus make, a response thereto or to contest the petition (supra), as became laid before him, at the instance of the Gram Panchayat concerned.

2. Though the said challenge is, prima facie, wanting in any legal efficacy, as Annexures P-1 and P-2, are only summons or notice, issued to the present petitioners to face and contest the proceedings, as became launched before the Assistant Collector First Grade Karnal, thus at the instance of the Gram Panchayat concerned.

3. However, for the reasons to be assigned hereinafter and not

taking the decision as made today, to be working as a precedent, thus the Assistant Collector concerned, is directed to after receiving a response from the present petitioners, thus ensure that qua any preliminary objection, as raised therein with respect to the maintainability of the said petition against the present petitioners, hence a preliminary issue becomes drawn, rather with respect to the said raised contention, and, shall also thereafter make a valid decision thereons.

4. The reason for this Court concluding, that the issuance of Annexures P-1 and P-2, on a petition instituted by the Gram Panchayat concerned, against the present petitioners, rather, *prima facie*, suffers from lack of application of mind, thus ensues from the factum that the Gram Panchayat concerned, as revealed by the true copy (Annexure P-5), of the jamabandi relating to the disputed lands, rather is not unravelled therein, to be owned by the Gram Panchayat concerned. Contrarily, therein a reflection occurs that the disputed lands are owned by '*Mandir Sitamai*'.

5. Therefore, only if the Gram Panchayat concerned was the able Manager and Controller of the disputed lands or was the *Shebait* of the idol installed in the temple concerned, thereupon, it had, *prima facie*, the requisite *locus standi* to maintain the said petition.

6. Therefore, only if such averments are contained in Section 7 petition of the 'Act of 1961', and, if the said averments are not contained, rather it becomes contended in the reply furnished to the said petition, by the present petitioners that neither the Gram Panchayat concerned, is the Controller and Manager of the disputed lands, nor is

endowed with the functions of a *Shebait* of the idol installed inside the temple concerned, thereupon, but obviously, *prima facie*, the petition instituted under the provision (supra), may not be well constituted, as the Gram Panchayat concerned, then may not, *prima facie*, be endowed with the *locus standi* to maintain the said petition before the Assistant Collector concerned.

7. In nutshell, leaving the above liberty to the present petitioners to raise such objections, with respect to the *locus standi* and/or qua the maintainability of the instant petition laid, against the present petitioners, who otherwise are also required to raising therein, a plea that they are the duly constituted Management Committee or one amongst them is the *shebait* of the idol installed within the temple concerned.

8. Resultantly, therebys alone the present petitioners, respondents in the said petition, may also then have the capacity to challenge the *locus standi* of the Gram Panchayat concerned.

9. Leaving all the above issues to be raised and become decided by the learned Assistant Collector concerned, thus the instant writ petition is closed, with the above liberty to the petitioners.

10. The said response to the impugned annexures shall be filed within two weeks from today and the, therein raised preliminary ground (above) with respect to the maintainability and qua the *locus standi* of petitioners to well lay the apposite petition, rather shall constrain, the learned Assistant Collector, to thus forthwith frame the relevant preliminary issue, besides within a period of one month subsequent thereto, he shall make a valid speaking decision thereons,

but after hearing all affected persons concerned.

11. Moreover, in case the respondents are the well constituted Managing Committee or any amongst them is the *Shebait* of the idol installed in the temple. Resultantly, if the respondents or others are evident encroachers over the disputed lands, thereby the ably constituted Managing Committee or the *Shebait*, may also draw lawful eviction proceedings, rather for ensuring the eviction of the encroachers, from the disputed lands.

12. Disposed of accordingly.

13. Since the main case itself has been disposed of, thus, all pending applications, if any, are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(HARSH BUNGER)
JUDGE

15.01.2024

kavneet singh

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