

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

CWP-29313-2023

Date of Decision : 15.01.2024

GURBACHAN SINGH AND ANOTHER

.....Petitioners

Versus

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present : Mr. Rajiv Kataria, Advocate
for the petitioners.

Mr. Maninder Singh, DAG, Punjab.

SURESHWAR THAKUR, J. (Oral)

1. The Gram Panchayat village Chirvi, Block Bhunerheri, Tehsil and District Patiala through its Sarpanch Tarsem Singh, instituted a petition, under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter for short called as the 'Act of 1961'). The said petition was instituted on 07.04.2018, and thereby the petitioner-Gram Panchayat claimed therein the eviction, of the respondents therein, who are the petitioners before this Court, rather from the petition lands.

2. A reading of the operative part of the verdict made on the said petition, on 06.03.2020 (Annexure P-10), reveals that the said order of eviction became premised, on a declaratory decree, becoming pronounced vis-a-vis the Gram Panchayat concerned, by the Hon'ble Apex Court.

3. In consequence, when there is but naturally a binding and

conclusive effect, to the assignment of a declaratory decree vis-a-vis, the Gram Panchayat concerned, thereby it becomes the lawful owner in possession of the disputed lands, whereby in terms of the declaratory decree, it acquires a valid *locus standi*, to institute an eviction petition, thus before the learned Collector concerned.

4. Even otherwise, no Court of Law was required to be irrevering the declaratory decree, as became passed by the Hon'ble Apex Court, whereby the Gram Panchayat concerned, petitioner in the petition (*supra*), became declared to be lawful owner in possession of the disputed lands.

5. In consequence, there was no ground available to the petitioners before this Court, respondents in the said petition, to raise any valid challenge to the validity of the said verdict of eviction, through theirs constituting an appeal thereagainst, before the learned Appellate Authority concerned.

6. Though, yet an appeal became raised thereagainst (Annexure P-10) by the aggrieved therefrom judgment debtors, who are the petitioners before this Court, before the Appellate Authority concerned. However, the said appeal was time barred, thus it became accompanied by an application cast, under Section 5 of the Limitation Act, thus explaining therein the purported valid reasons in the happening of the delay, in the aggrieved judgment debtors, thus preferring a time barred appeal against Annexure P-10.

7. However, the Appellate Court concerned, as revealed by Annexure P-12, made a declining order on the said application.

8. The learned counsel appearing for the petitioners submits

that, the impugned declining order (Annexure P-12), as became rendered, on the application cast under Section 5 of the Limitation Act, before the Appellate Authority concerned, was not sound in law, as the Appellate Authority was required to be asking for responses, being filed, to the said application, thus by the respondents, and, thereafter was required to be striking issues, and, subsequently was required to be also permitting the applicant to adduce the relevant discharging evidence rather on the said struck issue.

9. However, in case the verdict of the learned Collector concerned (Annexure P-10), but for reasons (supra), as became premised, on a binding and conclusive declaratory decree, becoming passed, vis-a-vis, the Gram Panchayat concerned, by the Hon'ble Apex Court, rather was shown to be rather not becoming well premised thereons, inasmuch as, that yet there was want of a declaratory title, becoming assigned, vis-a-vis, the disputed lands, thus by the Hon'ble Apex Court.

10. Therefore, only in the above eventuality, thus of no final binding and conclusive declaratory decree qua the disputed lands rather becoming passed, vis-a-vis, the Gram Panchayat concerned, that thereupon may be this Court may have been then led to conclude that, the above made argument(s), before this Court, by the learned counsel for the petitioners, rather for making a challenge to Annexure P-12, rather is well founded.

11. However, in the face of Annexure P-12, becoming well premised upon a binding and conclusive declaratory decree, becoming passed vis-a-vis the decree holder concerned, especially qua the

disputed lands, thereupon, even if there are any wants in the above regard by the learned Appellate Authority concerned, to draw issues on the contested pleadings, if any, raised, on the Section 5 application, and, to also thereafter permit the applicant to adduce the relevant discharging evidence thereons, yet rather the above wants, do completely fade and also become eclipsed, thus within the realm and domain of the binding and conclusive decree of declaration, as became passed by the Hon'ble Apex Court, vis-a-vis, the Gram Panchayat concerned, and, especially qua the disputed lands.

12. In consequence, the Gram Panchayat concerned, was well entitled to seek the eviction of the petitioners from the petition lands. Therefore, but naturally and reiteratedly the argument (supra), as becomes raised before this Court, by the counsel for the petitioners rather becomes completely unhinged.

13. In sequel, this Court finds no merit in the writ petition, and, is constrained to dismiss it. Dismissed accordingly.

14. The warrants of possession as become rendered by the learned executing Court, for enforcing Annexure P-10, upon, the unauthorizedly occupied estate of the judgment debtors concerned, be forthwith ensured, to be completely and successfully executed, but within three weeks from today.

15. No order as to costs. 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