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

**CWP No.11500 of 1998
Date of Decision: 02.02.2015.**

Amar Singh

.....Petitioner

Vs.

The Collector, Yamunanagar & others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. S.S. Dinarpur, Advocate
for the petitioner.

Ms. Avin Arora, Advocate for
Mr. Pritam Saini, Advocate
for respondents No.4 to 7.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

SURYA KANT, J. (ORAL)

The question that arises for consideration in the instant case is whether private respondents No.4 to 7 have encroached upon 16 Marlas *phirni* land which vests in the Gram Panchayat?

The petitioner filed a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 as applicable in State of Haryana against the private respondents alleging the above-stated encroachment. The Assistant Collector Ist Grade, Yamuna Nagar, held that as per the spot inspection carried on 06.01.1996 in presence of the parties and the demarcation report dated 24.04.1993, the respondents had encroached upon the *phirni* land.

Consequently, the eviction order was passed.

The private respondents went in appeal and the Collector, Yamuna Nagar, vide order dated 21.10.1997 (wrongly typed as 21.05.1997 in Annexure P-4) held that it is a case of mis-location of *phirni* as there was a difference of 7 *karams* between the *phirni* and the metalled road constructed at the site. The appeal was thus allowed and the eviction petition was dismissed.

We have heard learned counsel for the parties and gone through the record. Since there is a serious dispute with regard to the exact location of the *phirni* which question essentially goes into the root of the matter as the encroachment, if any, can be determined only when the exact location of the *phirni* is known, the appropriate recourse for the Collector would have been to remand the case to the Assistant Collector with a direction to evolve ways and means for determining the exact location of the *phirni* viz-a-viz the metalled road constructed by the PWD Authorities.

Since the question of encroachment cannot be decided in the absence of above-stated fact-finding, we set aside both the orders dated 21.03.1997 and 21.10.1997 (Annexures P/3 & P/4), passed by the Assistant Collector, Ist Grade as well as the Collector, Yamuna Nagar, respectively, and remit the case to the Assistant Collector, Ist Grade, Yamuna Nagar to undertake the exercise in the manner directed above and thereafter determine whether or not any encroachment has been made by the private respondents at the site.

The Assistant Collector, Ist Grade, shall decide the matter within a period of four months from the date of receipt of certified copy of this order.

The parties are directed to appear before the Assistant Collector, Ist Grade, Yamuna Nagar, on 06.03.2015.

(SURYA KANT)
JUDGE

February 2, 2015
Atik

(RAJ MOHAN SINGH)
JUDGE