

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

Civil Writ Petition No. 12386 of 2015 (O&M)

Date of decision : 12.6.2015

Gurjot Singh

... Petitioner

VS

State of Haryana and others

... Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. Karanvir Singh Khehar, Advocate, for the petitioner.

Rajesh Bindal, J.

The petitioner has challenged the notice dated 5.6.2015 (Annexure P-8) issued by the respondents to the petitioner pointing out that he is in unauthorised possession of part of land bearing khasra no. 137, gair mumkin road, Village Babyal, Tehsil and District Ambala. The same has been directed to be removed on or before 15.6.2015.

Learned counsel for the petitioner submitted that as the petition filed by the State under Sections 5 and 7(2) of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972 (for short, 'the Act'), was dismissed in default by the Collector vide order dated 16.12.2013, the petitioner cannot be evicted from the site in dispute. The property in question had been purchased by Surjit Singh, father of the petitioner, by way of registered sale-deed dated 24.6.2005 and he gifted the same to the petitioner vide gift deed dated 8.1.2015. The petitioner has got right, title and interest in the property in pursuance to the aforesaid gift-deed.

After hearing learned counsel for the petitioner, I do not find any merit in the submissions made.

The issue regarding encroachment on Ambala-Jagadhri Road, which passes through Mahesh Nagar, Jagadhri Road, Ambala Cantt, was considered by this Court in detail vide judgment dated 23.12.2014 passed in CWP No. 20399 of 2009 K. D. Sharma vs State of Haryana and others,

wherein it has been noticed that demarcation of the area was got conducted under the supervision of this Court through the Deputy Commissioner. The demarcation was conducted in the presence of the persons, who were alleged to be in unauthorised occupation of the part of the road. The entire process was videographed. The report dated 26.2.2012 was submitted in this Court showing in detail the area which was unauthorisedly occupied by various persons. The name of the petitioner is mentioned at Sr. No. 51. Number of persons, who were shown to be in unauthorised occupation, had filed writ petitions in this court, which were dismissed by this Court vide judgment in K.D.Sharma's case (supra), opining that they do not have any right in the property.

This Court in the aforesaid judgment directed action against the encroachers and to restore the road to its original width as per the masavi and the demarcation report dated 26.2.2012. The operation is to be carried out by the Deputy Commissioner. It is in pursuance to the aforesaid directions that the notice has been issued to the petitioner. The same cannot be said to be illegal. Even dismissal of the petition filed by the State under the Act in default by the Collector, is also of no consequence. The matter has been gone into by this Court after the demarcation was carried out by the Deputy Commissioner, and the demarcation report was considered by this Court. Further even the gift-deed registered in favour of the petitioner on 8.1.2015 also does not confer any right on him as the vendor himself was not found to be owner of the property.

The petition stands dismissed.

12.6.2015
vs

(Rajesh Bindal)
Judge