

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.18742 of 2014
Date of Decision: December 15, 2015

Ram Sarup @ Ram Saroop and othersPetitioners

versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.H.K.Bindra, Advocate, for
Mr.P.S.Sikand, Advocate, for the petitioners.
Ms.Kirti Singh, Deputy Advocate General, Haryana.
Mr.Rohan Sharma, Advocate, for
Mr.Vikram Singh, Advocate, for respondent No.5.

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 petitioners are residents of village Haveli, Tehsil Jagadhri, District Yamuna Nagar. They have laid challenge to the orders dated 28.11.2006, 21.04.2011 and 20.08.2013. Vide the first order dated 28.11.2006, the Gram Panchayat's application filed under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 as applicable to the State of Haryana (for short, 'the 1961 Act') was allowed and the petitioners were ordered to be evicted from the land measuring 1.5 kanal and a part of khasra No.58 min situated within the abadi deh. Vide the subsequent orders, petitioners' appeal as well as revision petition were dismissed.

When this writ petition came up for preliminary hearing on 10.09.2014, the solitary contention raised was that

the demarcation is required to be carried out afresh.

On 12.05.2015, this Court directed the B.D.P.O. Sadhaura to demarcate the land and re-determine whether the petitioners are in unauthorized possession of the abadi deh land being used for common purposes?

In deference thereto, the B.D.P.O. Sadhaura has submitted the demarcation report. It is averred that the fresh demarcation was conducted by the Local Commissioner in the presence of both the parties and as per that report, petitioner Nos.1 & 5 have been found in illegal possession of a small part of the land in dispute, i.e., 18x24 feet. The remaining land was found vacant at the spot. The site-plan depicting the encroachment has also been appended.

Since fresh demarcation has been carried out in the presence of the parties and under the supervision of Local Commissioner, we have no reason to discard that report. Resultant effect is that the writ petition succeeds in part and the impugned orders are modified. Since petitioner Nos.1 & 5 have been found in unauthorized possession of a part of the land in dispute as per the demarcation report of the B.D.P.O., Sadhaura, the impugned eviction orders to the extent of such encroached land are upheld. However, liberty is granted to petitioner Nos.1 & 5 to apply for the purchase of that land from the Gram Panchayat provided that they fulfill the conditions prescribed in Rule 12 (4) of the Punjab Village Common Lands (Regulation) Rules, 1964 as applicable to the State of Haryana and provided further that the Gram Panchayat also agrees to their request. If such a mutual decision is taken, the Deputy Commissioner, Yamuna Nagar is directed to forward the proposal to the State Government for

its necessary approval.

Ordered accordingly.

Status-quo re: possession shall be maintained for a period of two months so as to enable the petitioners to apply and the Gram Panchayat to take any decision upon their request.

Dasti.

[SURYA KANT]
JUDGE

December 15, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE