

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

**CWP No.21137 of 2014
Date of Decision: 24.07.2015**

Dharmal

.....Petitioner

Versus

The Collector, Jind & others

....Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present: Mr. R.N.Lohan, Advocate
for the petitioner.

Mr. D.Khanna, Addl. A.G., Haryana.

Mr. Jitender Kaushik, Advocate
for respondent No.3.

Mr. S.P.Chahar, Advocate
for respondent No.4.

RAJIVE BHALLA, J (ORAL)

The controversy in the present writ petition falls within a narrow sphere.

The petitioner filed a petition under Section 7 of the Punjab Village Common Land (Regulation) Act, 1961, praying that respondent No.3 may be directed to remove encroachment from a village street. The Assistant Collector and the Collector have found as a matter of fact that there is no encroachment in the street.

Counsel for the petitioner, however, submits that a

perusal of the report prepared by the Tehsildar on 07.10.2013 proves that respondent No.3 has encroached upon the street and prays that the impugned orders may be set aside.

Counsel for respondent No.3 submits that findings of facts recorded in the impugned orders are based upon a demarcation report that proves that the petitioner is not in possession of any part of the street.

We have heard counsel for the parties and perused the demarcation report.

The demarcation report in essence so reads as follows:-

“As per order of Sub Divisional Officer (Civil), Jind today on dated 2.10.13, I reached on the spot in the village Alewa in appeal Dharmal Vs. Parvat Raj etc. On the spot, Naib Tehsildar Alewa, Kanungo Alewa and Patwari Halqa alongwith record and both parties and other respectable persons were present. All the present persons the gali no.520 was inspected. As per record, the gali is 27-1/2 feet wide whereas on the spot there is 31 feet gali. On the measurement of the house of Parvat Raj it has been found that his land of 1 feet is balance in the gali. But Parvat Raj has encroached the gali by 5' x 22' and there is earth and bricks. Besides this Sheer Singh son of Kurdia has also encroached 3 feet x 16 feet gali and Randhir has installed a submersible pump in the gali. After inspecting the spot, the report submitted by Kanungo dated 19.11.2011 is correct. The report is submitted for taking further action.”

As per the report, the street is 27 ½ ft. wide but at the site is 31 ft. wide. The petitioner's argument that

respondent No.3 has encroached upon the street is not made out, as even as per the demarcation report the petitioner's house does not intrude into the 27 ½ ft. of the street but as he has stored bricks and earth in the street, while affirming the impugned orders and dismissing the writ petition, it is directed that respondent No.3 shall remove any "malba"/bricks, earth etc. from the street and no person whosoever, shall encroach upon any part of the street. . The Assistant Collector, 1st Grade, shall ensure that no one encroaches upon the street in any manner whatsoever.

Dismissed.

[RAJIVE BHALLA]
JUDGE

24.07.2015
Vinay

[AMOL RATTAN SINGH]
JUDGE