

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

Civil Writ Petition No.24526 of 2014

Date of Order: 13.07.2015

Krishan and others

..Petitioners

Versus

State of Haryana and others

..Respondents

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

**Present: Mr. Rohtash Birh, Advocate, for
Mr. S.S.Dinarpur, Advocate,
for the petitioners.**

**Mr. D.Khanna, Addl.A.G.,Haryana
for respondents no.1 to 4.**

**Mr. Karan Singla, Advocate,
for respondent no.5.**

**Mr. R.S.Longia, Advocate,
for respondent no.6.**

RAJIVE BHALLA, J (Oral)

The petitioners pray for issuance of a writ in the nature of certiorari, quashing orders dated 19.08.2011 (Annexure P-3), 05.03.2013 (Annexure P-4) and 08.07.2014 (Annexure P-5), passed by the Assistant Collector Ist Grade, the Collector, Kurukshetra and the Commissioner, Ambala Division, Ambala, respectively.

Counsel for the petitioners submits that the eviction order holding that the petitioners have constructed their houses on a part of the "Gair Mumkin Johar" (pond), is illegal and contrary to the

record. The demarcation report that forms the basis of the eviction order is factually and legally incorrect. Even otherwise, as the petitioners have admittedly constructed houses on the land, in dispute, liberty may be granted, if the orders are to be affirmed, to approach the Gram Panchayat under Rule 12 of the Punjab Village Common Lands (Regulation) Rules, 1964 (hereinafter referred to as 'the Rules), for purchase of the land.

Counsel for the respondents submit that as the petitioners have encroached upon a part of the "Gair Mumkin Johar" i.e. a water body, the eviction order having been passed after demarcation of the pond and the land, in possession of the petitioners, does not call for interference. The petitioners, even otherwise cannot be allowed to purchase land, which forms part of a "Gair Mumkin Johar".

We have heard counsel for the parties and perused the impugned orders.

A perusal of the impugned order reveals that the petitioners have been ordered to be evicted, from the land, in dispute after demarcation of the land and recording a finding that the land in possession of the petitioners forms part of a "Gair Mumkin Johar". A "Gair Mumkin Johar", vests in a Gram Panchayat under Section 2(g) (4) of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the Act'). We find no reason whether in fact or in law to accept the petitioners' argument that the demarcation report or findings recorded in the impugned orders are in any manner illegal or contrary to any provision of the Act or the Rules.

However, while affirming the impugned orders, we grant

liberty to the petitioners to approach the Gram Panchayat by way of an appropriate application under Rule 12 of the Rules, for purchase of the land, in dispute. In case, such an application is filed, within 15 days from today, it shall be considered and decided by the Gram Panchayat, within a month of its filing.

Disposed of accordingly.

(RAJIVE BHALLA)
JUDGE

July 13, 2015
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(AMOL RATTAN SINGH)
JUDGE