

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

COCN No. 312 of 2013 (O&M)

Date of decision : 29.4.2016

Bant Singh

.. Petitioner

versus

Gurmail Singh and others

.. Respondents

Coram: Hon'ble Mr. Justice Rajesh Bindal

Present: Mr. S. S. Dinarpur, Advocate, for the petitioner.
Mr. M. C. Berry, Additional Advocate General, Punjab.
Mr. S. S. Grewal, Advocate, for respondent no. 2.

Rajesh Bindal, J.

This order will dispose of COCN Nos. 312 of 2013 and 224 of 2014.

The facts have been extracted from COCN No. 312 of 2013.

The violation of the order dated 17.10.2012 directing delivery of possession of the land to the Gram Panchayat has been alleged in the present petition. On 4.9.2015, this court passed the following order:-

“The petitioner alleges violation of the orders of the Writ Court dated 17.10.2012. The said petition was disposed of when the counsel for the Gram Panchayat stated before the Court that warrants of possession have been issued and the writ petition may be disposed of by directing the Tehsildar Rajpura, District Patiala to ensure the possession of land which is subject matter of order passed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 with a clear mandate that land be delivered to the Gram Panchayat on the date fixed for delivering the possession. A further direction was given that Tehsildar Rajpura would ensure possession of the land on the date fixed. It is not disputed by the petitioner that the possession was indeed given to the Gram Panchayat but according to him on 27.11.2012, the respondents re-possessioned the land by raising

encroachments thereon. He, thus, contends that this act of the respondents is contumacious as the possession was given merely to comply with the order of this Court with an intention to repossess subsequently to defeat the orders of the Court.

The official respondents in COCP-224-2014 have filed a reply indicating that there is no encroachment as alleged by the petitioner and demarcation was carried out regarding khasra no.1348(2-13) on 10.07.2013. The demarcation was carried out pursuant to the proceedings in Civil Writ Petition No. 334/2013. The petitioner, however, disputes this fact while reasserting his plea that the respondents have encroached upon the land in question. The petitioner has pleaded in his petition the particulars of the land which may be detailed as under:-

“Land measuring 2 bighas 13 biswas comprising in khewat khata no.130/364 khasra nos.1348(2-13) situated in revenue estate of village Jandmangoli Tehsil Rajpura, District Patiala.”

He thus, pleads that a fresh demarcation be carried out at his expense in order to verify the correctness of facts.

The Court is not entirely in agreement with the contention of petitioner and would *prima facie* tend to lean towards the demarcation report already on record but for the fact that the interest of the land of the Gram Panchayat is involved which is alleged to have been encroached. Consequently, I would direct Ms.Anju Sharma, Advocate to go to the spot on 29.09.2015. The Tehsildar Rajpura, District Patiala either himself or through the responsible revenue official will get the demarcation done in the presence of the Local Commissioner. The Tehsildar or the revenue official entrusted with the task shall ensure that the parties are given due notice and are present at the spot when the demarcation is carried out. The fee of the Local Commissioner is assessed at Rs.30,000/-. The petitioner

would also deposit a sum of Rs.50,000/- before the Registrar within a period of one week from today so as to test his bonafides.

It is made clear to the petitioner that this amount would be forfeited in case his assertion is found to be incorrect.

Adjourned to 02.11.2015.”

In terms of the aforesaid order, the demarcation was carried out and the report was submitted to this Court.

Learned counsel for the petitioner submitted that demarcation report has been challenged by the petitioner by filing CWP No. 2688 of 2015. In case the demarcation, as carried out by the revenue authorities is upheld that would mean the stand taken by the petitioner was wrong. In case that report is set aside his stand that there was encroachment on the land in dispute would be sustained.

As the dispute is now pending in a writ petition filed by the petitioner, in my opinion, the present petitions deserve to be disposed of.

Ordered accordingly.

A sum of Rs. 50,000/- were deposited by the petitioner in terms of the order dated 4.9.2015 for testing the bonafide of the petitioner. In case the stand of the petitioner is sustained regarding encroachment by the private respondents, the petitioner may be entitled to refund of the amount.

As the dispute is now pending in a writ petition filed by the petitioner, in my opinion, the present petitions deserve to be disposed of with liberty to the petitioner to get the same revived in case after decision of the writ petition the relief, if any, admissible to the petitioner is not granted.

29.4.2016
vs

(Rajesh Bindal)
Judge