

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.10105 of 2015
Date of Decision:-4.4.2016.

Vijay Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

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

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?

Present: Mr. Vipul Sharma, Advocate for the petitioner.

Mr. R.D. Sharma, DAG, Haryana.

Mr. Shashi Kumar Yadav, Advocate for
respondent No.6.

None for respondent No.7.

SURYA KANT, J. (ORAL)

- 1.) Though learned counsel for the petitioner submits at the outset that he may be permitted to withdraw his power of attorney as the petitioner has not come forward despite repeated communications but on our asking, he has argued the case on merits at considerable length.
- 2.) Heard learned counsel for the respondents as well.
- 3.) The petitioner has laid challenge to the orders dated

15.11.2011, 27.11.2012 and 10.7.2014 passed by the Authorities under the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the 1961 Act') as applicable to State of Haryana respectively. Vide the first order, application filed by respondent No.6 under Section 7 of the 1961 Act seeking ejectment of the petitioner from the public passage which he was alleged to have been encroached upon, was allowed and a direction to evict him from the encroached portion within 30 days was issued. The petitioner went in appeal after a delay of 11 months. Hence, the Collector, Rewari dismissed his appeal being barred by limitation vide order dated 27.11.2012.

4.) The petitioner then filed a revision petition and despite dismissal of his appeal on the ground of delay, the Commissioner Gurgaon Division, heard the petitioner on merits and having found that he had encroached upon the public passage, dismissed the revision petition on merits. Still aggrieved, the petitioner has filed the instant writ petition.

5.) The issue that arose for consideration of the Authorities was whether the land in dispute is a 'private passage' or a 'common passage'? There is a concurrent finding of fact that it is a common passage which is used by more than one inhabitant of the village and the petitioner had made encroachment in the said passage. In this regard, we have also seen the site-plan (P-4) coupled with the findings returned by the Assistant Collector Ist Grade and the Revisional Authority. It does appear that the petitioner has

constructed a wall illegally at the points marked ABCD thereby reducing the width of the public passage and causing obstruction to free movements. Though learned counsel for the petitioner vehemently urged that the finding is contrary to the record but in the absence of any material to draw such an inference, we find no ground to interfere with the impugned orders.

6.) Dismissed.

(SURYA KANT)
JUDGE

(P.B. BAJANTHRI)
JUDGE

April 4, 2016.

sandeep sethi