

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

CWP No.11302 of 2015 (O&M)

Date of Decision: 20.01.2016

Surinder Singh

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present: Mr. Vikram Singh, Advocate for the petitioner

Ms. Kirti Singh, DAG Haryana

SURYA KANT, J. (Oral)

(1) The petitioner has approached this Court seeking a mandamus to direct the respondents to demarcate the land of playground of village Gheed, Tehsil & District Karnal pursuant to the applications dated 30.04.2015, 06.05.2015, 11.05.2015 & 18.05.2015 (P2 to P5).

(2) We have serious doubts on the very maintainability of the writ petition ought to have been dismissed at the threshold. There is an eviction order passed against the petitioner's father at the instance of the Gram Panchayat of his village under Section 7 of the Punjab Village Common Land (Regulations) Act, 1961 as applicable to the State of Haryana. The eviction order has attained finality. Instead of removing the encroachment, the petitioner's father filed application under Rule 12(4) of the Punjab Village Common Land (Regulations) Rules, 1964 to purchase the land encroached by him. As the Gram Panchayat declined to sell

its land, the petitioner's father approached this Court in CWP No.15247 of 2013 which was dismissed on 14.10.2014. It was with a view to ensure the removal of encroachment that this Court further directed the Deputy Commissioner to demarcate the entire playground and construct the four-wall after including the encroached upon land in the compound of the school. The operative part of the order dated 14.10.2014 reads as follows:-

“7. Having given our thoughtful consideration and on waiving the petitioner's private interest vis-a-vis the public interest, namely, the use of land as a playground for the school children, we are of the considered view that the authorities have rightly declined to accord approval for the sale of Gram Panchayat land. It is not a case of extreme hardship as the petitioner has already got a residential house of 'A' class construction. In any case, no one can be allowed to use the land earmarked for public purpose like playground of the school, for private purposes. No fault, thus, can be found with the order under challenge. The writ petition is thus dismissed directing the petitioner to hand over vacant possession of the land to the Gram Panchayat within one month.

8. We further direct the Gram Panchayat in public interest to get the entire area of the playground demarcated and construct a fare-wall by including the subject land as a part of the school compound. If need be, the State

Government and the Deputy Commissioner are also directed to release additional grant for the aforesaid purpose. The Deputy Commissioner, Karnal shall ensure the compliance of these directions and a compliance report be sent to the Registrar General before 30.06.2015.”

(3) The instant writ petition has again been filed seeking a direction to the authorities for demarcation of the playground. The petition is nothing but an abuse of the process of law.

(4) In para 5 of the reply/affidavit filed by respondents No.2&3, it is averred that “...it is wrong on the part of the petitioner to say that the demarcation dated 29.04.2015 was not proper and incorrect, it is submitted that the demarcation was got conducted by Total Station Machine which is very much accurate and authenticated. It is further denied that the demarcation was conducted with collusion of any other person and under any influence...”.

(5) In this view of the matter, no further action is called for except to dismiss this writ petition with cost of ₹10,000/- to be deposited in the High Court Lawyers Welfare Fund within one month.

(6) Ordered accordingly.

(Surya Kant)
Judge

20.01.2016
vishal shonkar

(P.B. Bajanthri)
Judge

