

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.10379 of 2016

Date of Decision: May 24, 2016

Kishan Lal

....Petitioner

versus

State of Haryana and others

.....Respondents

**CORAM:HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE A.B.CHAUDHARI.**

Present: Ms.Ramandeep Kaur, Advocate, for the petitioner.
Ms.Kirti Singh, Deputy Advocate General, Haryana.

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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?

Surya Kant, J. (Oral)

Notice of motion to respondent No. 1 & 2 only at this stage.

On our asking, Ms.Kirti Singh, learned Deputy Advocate General, Haryana, accepts notice on their behalf.

Let two copies of the writ petition be supplied to learned State counsel during the course of day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

In view of the nature of order which we propose to pass, it is not necessary to seek any counter-reply from respondent Nos.1 & 2 or to serve respondent No.3 and private-respondents at this stage as no order on merits prejudicial to their interest is being

passed.

The petitioner is a resident of village Sutana, Tehsil Matlauda, District Panipat. He alleges that the land/area of Pond (*Johar*) which is meant for common purposes, is encroached upon by various persons including the private-respondents and no action is being taken by the Gram Panchayat or other authorities. It is averred that Khasra Nos.192, 193 and 194 comprise *Gair Mumkin Johar* (pond) and substantial part of these khasra numbers, namely, almost 35 acres of land has been encroached upon.

The petitioner had earlier approached this Court by way of Civil Writ Petition No.13679 of 2015 alleging that the Gram Panchayat was diverting the land of above-stated *Gair Mumkin Johar* for another common purpose. The Deputy Commissioner, Panipat filed his affidavit in that case pointing-out that the subject khasra numbers are recorded as *Gair Mumkin Johar* in the revenue record and the said *Johar* (pond) is being used by all the inhabitants of the village. It was also assured that no encroachment of such like public property shall be allowed. The writ petition was accordingly disposed of vide order dated 26.11.2015 as per the assurance.

The petitioner, however, alleges that despite such assurance, most of the area of the Pond has been encroached upon and no action is being taken though he has reminded the authorities including the Deputy Commissioner, Panipat by way of a legal notice dated 04.01.2016 and reminder dated 28.03.2016 also.

We have heard learned counsel for the petitioner.

The petitioner has raised various questions of facts which can be effectively determined by the Collector in the proceedings pending under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, as applicable to the State of Haryana. The aforesaid provision also enables a resident of the village to initiate eviction proceedings against encroacher of *shamlat deh*. We thus dispose of this writ petition, without expressing any views on merits at this stage, with a direction to the Deputy Commissioner, Panipat to depute some responsible officer to hold a fact-finding enquiry and if the allegations made by the petitioner are found to be correct, issue necessary instructions to the Gram Panchayat to initiate appropriate proceedings in accordance with law. In addition, the petitioner shall also be at liberty to initiate appropriate proceedings as per the law. The authorities shall do the needful within a period of three months from the date of receiving a certified copy of this order.

Ordered accordingly.

Let a copy of this order be given dasti to Ms.Kirti Singh, learned Deputy Advocate General, Haryana, for information and necessary compliance.

[SURYA KANT]
JUDGE

May 24, 2016
mohinder

[A.B.CHAUDHARI]
JUDGE