

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14924 of 2015
Date of Decision:-2.3.2016.

Rampal and others

.....Petitioners

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. Sarvjit Singh Khurana, Advocate for the petitioners.

Ms. Kirti Singh, DAG, Haryana.

Mr. Ashish Chaudhary, Advocate for respondent No.5.

Mr. Sudhir Kumar, Advocate for
Mr. Naveen Sheokand, Advocate for respondent No.6.

SURYA KANT, J. (ORAL)

1.) The petitioners assail the orders dated 27.4.2011, 14.3.2012 and 30.10.2014 passed by the Assistant Collector Ist Grade, Rewari and other superior authorities under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the 1961 Act'), as applicable to State of Haryana. Vide these orders, the petitioners were ordered to be evicted from a part of the public street

comprising *khasra* No.608 allegedly encroached upon by them. Their appeal etc. against that eviction order have also been dismissed. These orders were passed at the instance of respondent No.5 who is a resident of the village.

2.) When this writ petition came up for preliminary hearing on 24.7.2015, the petitioners questioned the demarcation earlier carried out and expressed their willingness for fresh demarcation at their cost and expense. Such a statement was again made before this Court on 26.11.2015 followed by the order dated 14.12.2015 whereby Local Commissioner was appointed and a team of the officers comprising (i) Tehsildar, (ii) D.D.P.O. (iii) Field Kanungo, (iv) Halqa Patwari and (v) Panchayat Secretary was constituted to carry out fresh demarcation after notice to the parties.

3.) The learned Local Commissioner has submitted a comprehensive report and pointed out that as per the claim of respondent No.5 in the eviction petition, the width of the street is 11 feet and on its physical demarcation at 3 places, it was found that the width of the street was 14.6 feet, 15.3 feet and 17.7 feet. The entire street has been constructed by the Gram Panchayat with interlocked tiles.

4.) In view of the above stated report submitted by the team of senior officers under the direct supervision of learned Local Commissioner to the effect that *prima facie* there is no encroachment of 3 feet of the street area has been made, we are satisfied that the

impugned eviction orders cannot sustain in law. The same are, accordingly, set aside. However, with a view to give yet another opportunity to respondent No.5 to lead any evidence to establish the encroachment in the public street, not necessarily by the petitioners, the matter is remitted to the Assistant Collector Ist Grade, Rewari where the parties are directed to appear on 4.4.2016.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

March 2, 2016.

sandeep sethi