

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.209 of 2016 (O&M)

Date of Decision: 21.04.2016

Manjit Kaur

... Petitioner

VS.

Director, Rural Development and
Panchayat, Punjab & Ors.

... Respondents

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

- 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: Ms. Ramandeep Kaur, Advocate for
Mr. Vikram Singh, Advocate for the petitioner
Mr. DS Sobti, Addl. AG Punjab
Mr. Sukhjinder Singh, Advocate for Gram Panchayat
Mr. Bhupender Singh, Advocate for
Mr. Munish Gupta, Advocate for complainant

SURYA KANT, J. (Oral)

(1) The petitioner is aggrieved by the orders dated 12.09.2008 and 28.10.2015 (P1 & P4) passed by the Collector and the Appellate Authority, respectively under the Punjab Village Common Land (Regulations) Act, 1961. Vide the first order the eviction petition filed by the Gram Panchayat was allowed conditionally in following terms:-

“The application of the plaintiff is accepted only on the ground that the plaintiff may get the demarcation of the land in dispute from the Revenue Department in the presence of parties and after that if the unauthorized possession of the respondents is proved, they can be dispossessed.”

(2) The petitioner chose to file an appeal against the above-stated order on 04.07.2014 which has been dismissed by the Appellate Authority vide impugned order dated 28.10.2015 being barred by limitation. Application for condonation of delay was also dismissed.

(3) When this writ petition came up for preliminary hearing, the following order was passed on 08.01.2016:-

“It is contended that the eviction order dated 12.09.2008 (P1) was conditional as the site was required to be demarcated by the Revenue Department to determine the unauthorized possession, if any. However, no demarcation is said to have been carried out before attempting to demolish the petitioner’s house. On this premise, it is urged that the appeal filed by her could not be dismissed on the ground of delay and laches. The petitioner has no objection if demarcation is carried out at her expenses and in the presence of Local Commissioner to be appointed by this Court at the cost of the petitioner.

xxx xxx xxx

Till the next date of hearing, status quo re: demolition and further construction shall be maintained.”

(4) We have heard learned counsel for the parties and gone through the record.

(5) It is evident from the relevant portion of the eviction order reproduced above that the order dated 12.09.2008 is conditional and the Gram Panchayat-plaintiff was required to get the land demarcated from the Revenue Department in presence of the parties to determine the area of unauthorized possession. Thereafter only the petitioner could be dispossessed.

(6) Since no such demarcation from the Revenue Department has been got done, the Appellate Authority was not justified in dismissing the appeal being barred by limitation.

(7) For the afore-stated, the writ petition is allowed in part; the order dated 28.10.2015 (P4) is set aside and the Appellate Authority is directed to decide the petitioner's appeal afresh after hearing the Gram Panchayat as well as complainant (Baldev Singh s/o Kabal Singh). Since there is already a direction issued by the Collector to get the land demarcated from the Revenue Department, it is further directed that the appellate authority shall decide the appeal after obtaining the demarcation report from the Revenue Department. The Deputy Commissioner, Fatehgarh Sahib is directed to deploy a team of Revenue officials to carry out demarcation of the subject-land within one month who shall submit demarcation report within 15 days and thereafter the Appellate Authority shall decide the appeal within three months thereafter.

(8) The parties are directed to appear before the Appellate Authority on 23.05.2016.

(9) Till then, *status quo re*: possession, alienation and/or further construction be maintained.

(10) Ordered accordingly.

(Surya Kant)
Judge

21.04.2016
vishal shonkar

(A.B. Chaudhari)
Judge