

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP No.24307 of 2014

Date of decision: May 16, 2016.

SATTA & ANR

... **Petitioners**

v.

COMMISSIONER ROHTAK DIVISION & ORS

... **Respondents**

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

Present: Shri Sandeep Sharma, Advocate, for the petitioners.

Ms. Kirti Singh, Deputy Advocate General, Haryana.

Shri Sandeep Parkash Chahar, Advocate for respondent No.7.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *Whether to be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

**Surya Kant, J.** (Oral):

The petitioners have laid challenge to the orders dated 10.5.2011 (Annexure P-6), 23.2.2012 (Annexure P-7) and 12.3.2014 (Annexure P-9) whereby they were ordered to be evicted from a part of the alleged public passage and their appeal/revision petition have been dismissed. These orders have been passed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, as applicable to the State of Haryana. The eviction petition was filed by respondent no.2 (Bijender Singh s/o Kalam Singh). The private respondents have not come forward to contest this writ petition and they were ordered to be proceeded against ex-parte on 7.5.2015.

We have heard Learned Counsel for the parties.

The controversy pertains to the alleged encroachment of khasra

No.491/7 which falls within the *abadi deh*. Khasra Nos.491/5 and 491/6 are also stated to be within abadi deh and the public passage connecting these khasra numbers is stated to have been partly encroached upon as the prescribed width of 12 feet is alleged to have been reduced in front of the petitioners' houses. The length of the street is 146 feet.

It is stated by learned Counsel for the petitioners that though the title dispute was specifically raised under Section 7(2) of 1961 Act but without adjudicating the same or even getting a fresh demarcation report, the revisional authority dismissed the revision petition observing that the length/width of the street suggests that it is being used for common purposes and thus falls within the definition of *shamilat deh*.

Having heard Learned Counsel for the parties and after going through the impugned orders, it does appear that there is a dispute with regard to the correctness of the report submitted by the local commissioner. While it would not be expedient for us to hold, in exercise of the writ jurisdiction, as to whether or not the petitioners having encroached upon the part of public street, their contention that the report of the local commissioner cannot be relied upon due to factual mistakes regarding khasra numbers, merits consideration. We thus, set aside the order dated 12.3.2014 passed by Commissioner, Rohtak and remit the case to the Revisional Authority with a further direction to constitute a team of revenue officials to carry out fresh demarcation of the area in dispute. The expenses likely to be incurred on carrying out fresh demarcation shall be borne by the petitioners as it is they who are disputing the demarcation report. After obtaining such report, the revisional authority shall decide the case afresh.

The parties are directed to appear before the revisional

authority on 4.7.2016.

Rest of the contentions of the parties shall also be gone into by  
the revisional authority in accordance with law.

[ **Surya Kant** ]  
**Judge**

[ **A.B. Chaudhari** ]  
**Judge**

May 16, 2016.  
*kadyan*