

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.27542 of 2015 (O&M)

Date of Decision: 13.01.2016

Brahmanand

... Petitioner

VS.

State of Haryana & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present: Mr. Gurvinder Sandhu, Advocate for the petitioner

SURYA KANT, J. (Oral)

(1) The petitioner assails the order dated 05.06.2008 and 26.03.2015 (P1 & P3, respectively) both pertaining to his eviction from the public passage, passed in the proceedings initiated at the instance of respondent No.6&7 under Section 7 of the Punjab Village Common Land (Regulations) Act, 1961 as applicable to the State of Haryana.

(2) The petitioners had earlier approached this Court in CWP No.26282 of 2014 taking a stand that if demarcation is carried out at the site, the allegation of encroachment leveled against him would be falsified. It was further averred that an application to recall the original eviction order dated 05.06.2008 had been moved which was still pending. The writ petition was thus disposed of directing the Collector to decide that application after taking into consideration the petitioner's above-stated plea.

(3) The Collector has now passed the 2nd impugned order dated 26.03.2015 (P8) rejecting the above-stated application primarily on the ground that no such application was pending when the order dated

22.12.2014 was passed by this Court and that the application was moved subsequently.

(4) The petitioner reiterates his plea that there is no encroachment at the spot and he has no objection if fresh demarcation is carried out.

(5) Having heard learned counsel for the petitioner, we are of the considered view that the writ petition against the order dated 05.06.2008 need not be entertained at this belated stage. The subsequent order dated 26.03.2015 has been passed while deciding a miscellaneous application only. The only possible remedy for the petitioner appears to be to file an appeal against that order, if maintainable. However, if no appeal is maintainable, in that case, the petitioner may submit his objections before the Executing Court taking the plea that no encroachment exists at the spot or that he has no objection if fresh demarcation is carried out at his expenses. The objection, if any, taken to this effect shall be decided by the Executing Court in accordance with law.

(6) The writ petition stand disposed of accordingly.

(Surya Kant)
Judge

13.01.2016
vishal shonkar

(P.B. Bajanthri)
Judge