

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.18704 of 2014 (O&M)

Date of Decision: 17.07.2017

Pritam Singh

... Petitioner

VS.

Director, Rural Development and
Panchayat Department & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Sarika Gupta, Advocate for the petitioner

Ms. Anu Pal, AAG Punjab

Mr. VK Sandhir, Advocate for respondent No.3

SURYA KANT, J. (Oral)

(1) The petitioner has laid challenge to the orders dated 25.08.2011 and 17.07.2014 (P3 & P5) passed under the Punjab Village Common Lands (Regulation) Act, 1961. The first order has been passed by Collector, Rupnagar in an eviction petition filed by the Gram Panchayat under Section 7 of the Act, alleging *inter alia* that the petitioner has encroached upon a part of khasra No.42 which is admittedly a public street. When the matter was pending before the Collector, it was realized that the controversy cannot be resolved without obtaining a demarcation report. Consequently, BDPO was directed to visit the spot and submit report. The BDPO sent his report No. 2468 dated 02.02.2011 with a finding that the street to the extent of 3ft. has been encroached upon by the petitioner by raising a small wall. Based upon such report, the eviction order was passed.

(2) The aggrieved petitioner preferred statutory appeal under Section 7(2) of the Act maintaining that the disputed site was the courtyard of his house and the same was in his possession from last 50 years or so. The appellate

authority, however, was not convinced and keeping in view the fact that there are two reports on record one by BDPO and other by SEPO both holding that there was encroachment in the street, the petitioner's appeal was dismissed. The aggrieved petitioner has approached this Court.

(3) Since the petitioner raised an objection against demarcation report of BDPO, this Court on 25.02.2016 directed the Deputy Commissioner, Ropar to appoint a team of Revenue officials comprising Tehsildar, one Field Kanungo and Patwari along with Officers of the Panchayat and Development Department to carry out fresh demarcation in the presence of Local Commissioner appointed by this Court.

(4) The Local Commissioner has now submitted a report along with photographs and the revenue record concluding that Khasra No.42 is a public street and there is an encroachment in the said street as was depicted in the photographs. The Local Commissioner has found that the encroachment is to the extent of 4ft.

(5) In the light of the concurrent finding of fact by the authorities below coupled with the report of the team of Revenue officials which has been further approved by the learned Local Commissioner, we are of the considered view that no case to interfere with the impugned orders is made out. The petitioner though has again filed objections against the report of Local Commissioner but such like disputed questions of fact cannot be gone into by this Court in these proceedings. There could possibly be an error on the part of BDPO when he alone carried out the demarcation. However, the subsequent demarcation has been made by a team of Revenue officials and that too in the presence of the Local Commissioner appointed by this Court. The same cannot be thus discarded. We accept the same unhesitatingly. In this view of the

matter, we do not find any merit in this writ petition and the same is accordingly dismissed.

(Surya Kant)
Judge

17.07.2017
vishal shonkar

(Sudhir Mittal)
Judge

- | | |
|-------------------------------|------------|
| 1. Whether speaking/reasoned? | Yes |
| 2. Whether reportable? | No |