

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18332-2015

Date of Decision: January 13, 2017

Sulekh Chand and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.Balbir Singh, Advocate
for the petitioners.

Mr.Deepak Balyan, Addl.Advocate General, Haryana.
Mr.Rajesh Goyal, Advocate
for respondent Nos.1 to 3.
Mr.Pritam Saini, Advocate
for respondent Nos.4 and 5.

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SURYA KANT, J.

The petitioners are aggrieved by the orders dated 28.09.2012, 18.06.2013 and 03.03.2015, whereby they were held to have encroached upon a part of public street while constructing their houses and consequently they have been directed to remove such encroachments. Their appeal and revision petitions etc. were also dismissed.

[2] When this matter came up for preliminary hearing on September 22, 2015, the following order was passed:-

“Learned counsel for the petitioners refers to the site plan (P-22) and the order dated 27.04.2006 (P-23) passed by

this Court in CWP No.6681 of 2003 (**Rajesh Kumar and others versus The State of Haryana and others**) and contends that the street shown in 'Green' colour, i.e., *phirni* of the village has the width of 22 feet where encroachment was made at the spot shown in 'Red' colour and after the same was removed, a statement was made before this Court that the encroachment had since been removed and the street was restored to its original width of 22 feet. As regard to the street shown in 'Yellow' colour, it is contended that its width was never 22 feet, rather from North to South upto T-Junction, i.e., till it hits the *phirni* of the village, the width of that street is between 10.6 feet to 11 feet and if it is found that the sanctioned width of the street is 11 feet, the petitioners are willing to remove the encroachment to expand the width to 11 feet in front of their houses. The petitioners are ready and willing to get the fresh demarcation conducted in the presence of a Local Commissioner at their expenses.”

[3] In deference thereto, the Local Commissioner was appointed vide the following order dated November 03, 2015:-

“The brief facts of the case, necessitating to direct the Authorities to carry out fresh demarcation and determine the width of street shown in 'yellow' colour in the site plan (P-22) are mentioned in our order dated September 22, 2015 and need not be repeated. The question to be determined is whether the width of the street shown in 'yellow' colour in the site plan (P-22) or in 'light green' colour in the site plan (R-4/2) is 22 feet wide immediate above the houses of the petitioners towards the North side and immediate below their houses towards the South side till it submerges in the *phirni*. If the width of the street on the North and South sides of the petitioners' houses is actually 22 feet wide, it is

obvious that they have made large-scale encroachment reducing the width of street. However, if the width of the street on the North and South sides of the petitioners houses is 11 feet wide only, in that case, the encroached area stands reduced substantially. Before issuing any further direction, a factual report in respect of the width of the above mentioned street [yellow colour in the site plan (P-22) and light green colour in the site plan (R-4/2)] is required to be obtained for which we direct the Deputy Commissioner, Ambala to constitute a team of Revenue Officers headed by a Tehsildar, comprising one Field Kanungo and Patwari which shall do the needful in the presence of Sh. Rajbir Attri, Advocate, Local Commissioner appointed by this Court. The Tehsildar shall inform the Local Commissioner preferably one week in advance before fixing the date for demarcation. The demarcation report duly signed by the Revenue Officials as well as by the Local Commissioner be submitted on the date fixed. The BDPO of the concerned area shall also remain present at the time of demarcation.”

[4] The Local Commissioner found that there was partial encroachment in the public street by the petitioners as the width of the street in front of their houses was required to be not less than 12.5 feet. The petitioners accepted the findings and agreed to remove the encroachment and restore the width of the street to 12.5 feet.

[5] The encroachment to that extent has been removed; affidavit on behalf of the petitioners were filed. With a view to ensure that no encroachment is left at the spot, a report from the Block Development & Panchayat Officer, Shahzadpur, Tehsil Naraingarh, Ambala, has also been taken in which it is reiterated that now there is no encroachment in the public

[6] In this view of the matter, it is held that the encroachment in the public street has since been removed. The petitioners shall ensure that in future also no encroachment is caused.

[7] No further action shall now be taken against the petitioners pursuant to the impugned orders. The writ petition stands disposed of accordingly.

**(SURYA KANT)
JUDGE**

January 13, 2017
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**(SUDIP AHLUWALIA)
JUDGE**

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