

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 22551 of 2016 (O&M)

Date of decision : 22.5.2017

Indra Wati and others

.. Petitioners

versus

State of Haryana and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
 Hon'ble Mr. Justice Ramendra Jain**

Present: Mr. B.K. Bagri, Advocate for
 Mr. Anil Rathee, Advocate for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana.

Rajesh Bindal, J.

Report of Naib Tehsildar, Narnaund dated 22.5.2017 filed in
Court is taken on record.

The petitioners have filed the present petition impugning the order dated 10.8.2016, whereby the application filed by them under Rule 12 (4) of the Punjab Village Common Lands (Regulation) Rules, 1964, was dismissed. The case set up by the Gram Panchayat is that the petitioners have encroached upon the shamlat land. The petitioners had prayed for regularization of unauthorized possession. Prayer was rejected by the Additional Chief Secretary to Government of Haryana, Development and Panchayats Department.

At the time of issuance of notice of motion on 8.11.2016, the stand taken by counsel for the petitioners was noticed to the effect that the petitioners are not in unauthorized occupation of Gram Panchayat land. They offered for fresh demarcation and in case they are found to be in unauthorized occupation of land of the Gram Panchayat, they would

voluntarily vacate the land and remove the construction.

On 15.2.2017, this Court passed the following order:-

“On 8.11.2016, on the statement made by counsel for the petitioners, liberty was given to the Tehsildar, Narnaund to carry out fresh demarcation of the area in dispute to find out unauthorized occupation of the Panchayat land. The expenses were to be borne by the petitioners.

Kanab Lakra, Tehsildar, Narnaund (Hisar), who is present in person in Court submitted that Total Station Machine has to be hired for carrying out demarcation of the land to satisfy the claim of the petitioners. More than 50% area of the village will have to be demarcated. It will take more than one month. The total cost may be about ₹ 2,00,000/-.

As in term of the order dated 8.11.2016, demarcation is to be carried out at the expense of the petitioners, let the petitioners deposit ₹ 2,00,000/- with the Tehsildar, Narnaund.

Learned counsel for the petitioners submitted that the amount shall be deposited within a period of one month.

As in the case in hand, demarcation of the land was earlier carried out in the year 2003 and now the same is being carried out again on the request of the petitioners and in the process, as stated by counsel for the State, four officials from the Department will remain busy for the period of about one month, the issue as to whether the petitioners would be made to bear that cost, will be decided after the demarcation is carried

out.

Adjourned to 22.5.2017.

Interim order to continue till the next date of hearing.”

Learned counsel for the State on instructions from Hawa Singh Bhambhu, Naib Tehsildar, Narnaund, District Hisar, submitted that despite due notice to the petitioners for deposit of amount as noticed in the previous order, the petitioners did not deposit the amount taking the plea of their financial condition.

In default of deposit of amount, demarcation could not possibly be carried out. As against that there is earlier demarcation report already on record on the basis of which, the petitioners were found in unauthorized possession of the Gram Panchayat Land, fresh demarcation was directed only on the request of the petitioners subject to the condition that they will bear the cost thereof.

Once, the petitioners are not ready to bear the cost of fresh demarcation, we do not find any merit in the present petition.

The petition stands dismissed.

(Rajesh Bindal)
Judge

(Ramendra Jain)
Judge

22.5.2017
sharmila

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No