

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No.23180 of 2017.

Date of Decision: October 10, 2017

Darbara Singh

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE SUDHIR MITTAL.

Present: Mr.Fateh Saini, Advocate, for the petitioner.

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Surya Kant, J. (Oral)

The grievance of the petitioner in the instant writ petition is against arbitrary and illegal demolition of a part of his residential house comprising bathroom and entrance gate. The demolition was done by the Halqa Kanungo, Tehsil Moonak, District Sangrur on the assumption that the construction raised by the petitioner was on the Gram Panchayat/public land and not on his private land. On the other hand, the case of the petitioner is that the house including bathroom and entrance gate have been constructed by him on his own land after getting the plot demarcated from the revenue officials.

The petitioner filed a suit for damages by way of compensation against the authorities as well as the Gram Panchayat of his village but his suit has been dismissed by the Civil Court on the ground that its jurisdiction is barred under Section 13 of the Punjab Village Common Lands (Regulation) Act, 1961.

We have heard learned counsel for the petitioner and gone through the record.

There appears to be some merit in the petitioner's contention that if the construction was raised on his private land, the authorities could not demolish the same arbitrarily without issuing any show-cause notice and in such event, the petitioner would be legitimately entitled to claim damages for the loss caused to him. The moot point is whether the demolished part of the building was constructed by the petitioner on his own land or it was a public property/Gram Panchayat land? Since such a question can be effectively determined under Section 11 of the Punjab Village Common Lands (Regulation) Act, 1961 and appropriate declaration regarding ownership of the land where construction was raised can be granted in those proceedings, the writ petition is disposed of with liberty to the petitioner to firstly file a petition under Section 11 of the 1961 Act and get a declaration that the land where the construction was raised does not vest in Gram Panchayat or any other public authority. As soon as such a declaration is granted, the petitioner shall be at liberty to claim damages before the appropriate forum.

Ordered accordingly.

Dasti.

[SURYA KANT]
JUDGE

October 10, 2017
mohinder

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No