

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 6222 of 2017 (O&M)
Date of Decision: 18.05.2017

Harish Panch

..Petitioner

versus

Union of India and others

..Respondents

**CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: Mr. Narender Pal Bhardwaj, Advocate,
for the petitioner.

RAMENDRA JAIN, J.

C.M. No.7493 of 2017

- 1 C.M. is allowed.
2. Accompanying document (site plan/Aks Shijra) is taken on record.

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3 Invoking extra-ordinary writ jurisdiction under Article 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing the respondents to remove the encroachment allegedly made by Punit son of Mitter Sain, over the Central Government Road passing through khasra No.39 situated at Village Zarifabad, District Karnal.

4 Briefly stated, according to the petitioner, there exists a central/Mall road in Khasra no.39 situated at village Zarifabad. The said road is recorded under the ownership of the Central Government in the jamabandi since 2010-11. The same was carved out by the Central

Government for commuting of the villagers from city to village and vice versa. One Punit son of Mitter Sain is having his agricultural land adjacent to the aforesaid central road, who, by demolishing it, had merged the same into his agricultural field and was earning profits by cultivating crops on the central road. The petitioner and other inhabitants of the village submitted an application dated 11.4.2016 to E-Disa Kender, Karnal, for removing encroachment from the aforementioned road after demarcation of Khasra no.39. In pursuance thereof, the Kanungo Halqa, vide his demarcation report dated 17.8.2016 (Annexure P-4), reported about illegal possession of Punit son of Mitter Sain over it. Thereafter, two applications were filed by the petitioner along with other villagers on 22.9.2016 and 29.8.2016 (Annexures P-5 and P-6) respectively, to the office of Deputy Commissioner and Sub Divisional Magistrate, Karnal and further also moved complaint dated 20.9.2016 (Annexure P-7) to the Secretary, Ministry of Road Transport & Highways, New Delhi, vide communication (Annexure P-9), but the respondents did not take any action. Hence, this writ petition.

5 Learned counsel for the petitioner has vehemently argued that a road meant for commuting of the villagers was carved out by the Central Government exists in khasra Number 39 situated at Village Zarifabad, but the same has been merged illegally by the land holder, namely, Punit son of Mitter Sain, into his agricultural land, therefore, necessary directions be given to the respondents to remove the illegal encroachment.

6 After giving our thoughtful consideration to the submissions made by learned counsel for the petitioner, we find that the writ petition is completely devoid of any merit and the same deserves to be dismissed.

7 The only question for consideration is that as to whether any road belonging to the Central Government leading from the abadi deh of village Zarifabad, to Pucca road Karnal to Kaithal, for ingress and egress of the villagers has been dismantled with the sole aim to amalgamate it into his agricultural land by the alleged encroacher, namely, Punit son of Mitter Sain.

8 Significantly, the petitioner has approached this Court with dishonest intention just to derive undue advantage after spanning over more than six decades of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948.

9 However, If at all, for the sake of arguments, it be presumed that the alleged encroacher, namely, Punit son of Mitter Sain had merged the government land into his agricultural land, it is the Central Government, which has to save its land from the clutches of the illegal encroachers and not the petitioner, who, indeed, has got no locus standi to file the instant writ petition by raking up such an issue which had never been raised by the inhabitants of the village since the time of consolidation of holdings in the village or thereafter. Not only this, even the conduct of the petitioner can be gauged from the fact that except the petitioner, no other person from the village had ever raised any objection to the passage connecting the village to Karnal-Kaithal road for the simple reason that the villagers have another existing road to their satisfaction for their commuting from village to city and vice versa. It seems that the instant writ petition has been filed by the petitioner with an oblique motive to settle his personal score with said Punit son of Mitter Sain.

10 In view of the foregoing reasons, no case is made out for

interference in exercise of extra-ordinary writ jurisdiction conferred by Articles 226/227 of the Constitution of India. Consequently, finding no merit in the writ petition, the same is hereby dismissed.

(RAMENDRA JAIN)
JUDGE

(RAJESH BINDAL)
JUDGE

18.05.2017
VK

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