

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

CWP No.10621 of 2018 (O&M)

Date of Decision : 26.07.2018

Rattan Singh and others

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Vivek K.Thakur, Advocate
for the petitioners.

Mr.S.P.Chahar, Advocate
for respondent No.4.

MAHESH GROVER, J. (Oral)

CM-10502-CWP of 2018

C.M.is allowed. Annexures P-12 to P-15 are taken on record.

CWP No.10621 of 2018

The petitioners have impugned the orders Annexures P-11 and P-8.

The proceedings under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 were initiated against the petitioners for having encroached upon the *Rasta* comprised in Khewat No.1121, Khatauni No.1486, Khasra No.486(1-0), Gair Mumkin Gali as per jamabandi for the year 2014-15. They pleaded that they were in possession of the area and the encroachment is only by one of the petitioners, namely, Rattan Singh, whose house is on the street.

This fact is not denied but what is pleaded before us is that it causes no inconvenience to anyone and the street leads to a dead end. It is pleaded that the residents of village are not inconvenient at all. The revenue authorities who dealt with the matter concluded the existence of the street and the encroachment made by the petitioners. A finding was recorded on the basis of revenue record that the disputed land stood in the name of Gram Panchayat, Kiwana, Tehsil Samalkha, District Panipat, being a *Gair Mumkin* street. The demarcation carried out during the course of proceedings established unauthorised possession over the land where houses were constructed by the petitioners, on account of which the width of the street has decreased. The petitioners in turn were unable to prove their ownership on the encroached land.

Learned counsel for the petitioners while arguing the matter initially contended that in the absence of any inconvenience to the residents and considering the fact of their being in possession since 1974, it should be treated as valid ground to take an equitable view of the situation and permit them to pay to the Gram Panchayat the market value of the encroached area. In this regard a reference has been made to the statement of the Sarpanch of the Gram Panchayat.

It has been brought to our notice by the learned counsel representing the Gram Panchayat that the son of petitioner No.2 was a Panch who persuaded the Sarpanch to make a statement to this effect.

This in itself cast a serious shadow of doubt on the

credibility of the Sarpanch's statement. Be that as it may, such an issue revolving around the exchange of land would be for the Panchayat to decide and, therefore, we would not accept such a plea in the exercise of writ jurisdiction under Article 226 of the Constitution of India.

For the present, we notice that there is absolutely no justification for the petitioners to have encroached upon the street decreasing its width without any legitimate right to the land.

No ground to interfere.

Dismissed.

(MAHESH GROVER)
JUDGE

26.07.2018
dss

(MAHABIR SINGH SINDHU)
JUDGE

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