

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 21077 of 2015 (O&M)
Date of Decision: 16.11.2018

KAMLESH**....Petitioner****VS.****STATE OF HARYANA AND OTHERS****...Respondent**

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**
 HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Parmod Kumar, Advocate,
 for the petitioner.

Mr. Anil Mehta, DAG, Haryana.

Mr. Rajesh Duhan, Advocate,
for respondent No. 5.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is directed against the order dated 22.09.2015 passed by the Block Development and Panchayat Officer, Pundri by which direction issued by this Court vide its order dated 26.08.2015 has been complied with and the petitioner has been evicted from the land reserved for pond qua which an order of eviction had already been passed, considering it to be in the hands of her *devar* (brother of the husband), vide order dated 30.03.2013 of the Assistant Collector, Ist Grade, Kaithal.

In brief, the petition under Section 7 (2) of the Punjab Village Common Lands (Regulation) Act, 1961 was filed by the inhabitants of the Village Karoran against certain unauthorized occupants of the panchayat land which was allowed by the Assistant Collector, Ist Grade on 30.03.2012 and the persons found in unauthorized possession of the Panchayat land were ordered to be evicted. The said order was not challenged by the persons against whom the order of the eviction was passed and thus, the said order had attained finality.

Be that as it may, the present petitioner, who happened to be the Bhabhi of Kuldeep Singh against whom the order of eviction was passed on 30.03.2012 in the writ petition bearing CWP No. 17729 of 2015 filed for seeking a writ in the nature of mandamus to not to demolish the only residential house of the petitioner without following the principles of natural justice much less notice etc.

The said writ petition was disposed of by this Court on 26.08.2015, while passing the following order: -

“Notice of motion.

On our asking, Mr.Kirti Singh, learned Deputy Advocate General, Haryana, accepts notice on behalf of the respondents.

Let four copies of the writ petition be supplied to the State counsel during the course of day failing which this order shall be automatically recalled and the writ petition shall be deemed to have been dismissed for non-prosecution.

In view of the nature of order which we propose to pass, it is not necessary to seek any counter-reply from the respondents at this stage.

The short grievance of the petitioner is that her residential house is sought to be demolished on the premise that several persons including brother of her deceased husband have been found to have encroached upon the Gram Panchayat land. While eviction orders under Section 7 (2) of the Punjab Village Common Lands (Regulation) Act, 1961, as applicable to the State of Haryana, were passed but it is alleged that the petitioner was not a party-respondent to those proceedings.

The principal question that arises for consideration is whether there is encroachment over the Gram Panchayat land? Since several persons are found to have encroached upon Khasra No.290, at the best, respondent No. 4 is obligated to serve a show-cause notice on

the petitioner explaining the extent of encroachment by her on the public/Gram-Panchayat land.

In this view of the matter, we dispose of this writ petition without expressing any views on the merits of the allegations made, with a direction to respondent No.4 to issue a show cause notice giving description of the area alleged to have been encroached upon by the petitioner and consider her objections, if any. The 4th respondents shall issue show cause notice to the petitioner within one week and the petitioner shall be granted another one week's time to submit her reply/objections and thereafter appropriate orders shall be passed by respondent No.4 after considering the objections/reply submitted by the petitioner, within a period of two weeks.

Till then, status-quo re: demolition shall be maintained.

Ordered accordingly.

Dasti.”

Apropos, the respondent/BDPO, Pundri has decided the issue raised by the petitioner by serving a notice upon her and had found on the basis of documentary evidence available on record that the petitioner is claiming compensation for the same land which was found in unauthorized possession. The petitioner being aggrieved against the order of the BDPO, Kaithal dated 22.09.2015 has now preferred this petition to challenge it on the ground that she was not a party before the Assistant Collector, Ist Grade when the impugned order dated 30.03.2012 under Section 7 (2) of the Act was passed.

We have heard learned counsel for the parties and after examining the record, are of the considered opinion that there is no merit in the contentions of the petitioner because the agitation of the petitioner was duly taken care of by this Court at the time of passing of order in the earlier writ petition CWP No. 17729 of 2015 when an opportunity was granted to the petitioner to file objections after a show cause notice is given to her. The respondents have served the show cause notice asking the petitioner to appear and after taking into consideration the objection, came to the conclusion that the petitioner is in fact referring to her

possession over the property in question which has already been found to be in the unauthorized possession of her devar; Kuldeep Singh.

No other point has been raised.

Thus, in view thereof, in view of the findings recorded in the order dated 26.08.2015 passed in the earlier writ petition and in the absence of any evidence to the contrary, we do not find any merit in the present petition and the same is hereby dismissed, though without any order as to costs.

[RAKESH KUMAR JAIN]
JUDGE

November 16, 2018
Ess Kay

[ANUPINDER SINGH GREWAL]
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>