

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

**CWP No. 32247 of 2018  
Date of decision: 17.12.2018.**

Mahender Singh

..... Petitioner.

Versus

Divisional Commissioner, Rohtak Division, Rohtak and others

..... Respondents.

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

Present:- Mr. Piyush Aggarwal, Advocate, for the petitioner.

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**ANUPINDER SINGH GREWAL, J.**

The petitioner has impugned the order dated 27.01.2014 (Annexure P6) passed by the Assistant Collector 1<sup>st</sup> Grade, Beri (respondent No.3) whereby the application of respondent No. 4 filed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the Act') was allowed; the order dated 21.04.2015 (Annexure P7) passed by the Collector-cum-Deputy Commissioner, Jhajjar (respondent No.2) and the order dated 04.06.2018 (Annexure P8) passed by the Divisional Commissioner, Rohtak Division, Rohtak (respondent No.1) whereby his appeal and revision were dismissed, respectively.

Respondent No.4 - Gram Panchayat, Safipur had preferred an application under Section 7 of the Act wherein it was alleged that it is the owner of the street in dispute which is used for common purposes by the

inhabitants of the village. The petitioner had encroached upon the street by constructing 'chabutra' and shed which had caused hindrance in the passage for the commuters.

In reply thereto, the petitioner had denied that the Gram Panchayat is the owner of the disputed land and stated that the encroachment, which had been shown in the site plan as Mark ABCD, was part and parcel of the land of the petitioner which is being used by him as a slope (ramp) for ingress and egress. He had also stated that the alleged encroachment is higher than the street which is on the western side of the disputed land and the wall on the northern side of the disputed land is in existence for a long time and the same has just been repaired by the petitioner.

The application of respondent No.4 had been allowed by relying upon the demarcation conducted by the Tehsildar, Beri whereby it was found that the petitioner is in unauthorised possession and has encroached upon the street owned by the Gram Panchayat.

Learned counsel for the petitioner contends that there is no encroachment on the land of the Gram Panchayat by the petitioner and he has just constructed 'chabutra' and shed over the land in dispute which actually belongs to him and, therefore, the application was not maintainable. He has also handed over a photograph which shows elevation constructed by the petitioner which leads to his gate.

We have heard learned counsel for the petitioner and also perused the documents brought on record.

The Assistant Collector 1<sup>st</sup> Grade, Beri (respondent No.3) had directed the Tehsildar, Beri to conduct demarcation and submit his report.

The Tehsildar, Beri, vide letter dated 14.11.2013, sent the demarcation report which was signed by the Block Development and Panchayat Officer, Beri and Girdawar Halqa as well. The petitioner had submitted his objections thereto on the ground that it was not clear as to how, to what extent and in which direction the unauthorised possession existed. Thereafter, the Assistant Collector 1<sup>st</sup> Grade, Beri (respondent No.3) had again directed the Naib Tehsildar, Beri and Block Development and Panchayat Officer, Beri to clarify the extent of unauthorised possession by inspecting the spot again along with Girdawar Halqa and demarcate the land in the presence of the parties and send a report. It was informed by the Tehsildar, Beri vide letter dated 20.12.2013 that petitioner - Mahender Singh had indulged in a scuffle and snatched his tape when he had gone there to conduct demarcation. He had sought police help and the Assistant Collector 1<sup>st</sup> Class, Beri (respondent No.3), vide letter dated 24.12.2013, had directed the in-charge of the police station concerned to provide police help and the Naib Tehsildar, Beri was appointed as Duty Magistrate. The demarcation was carried out and the report was presented in the Court of Assistant Collector 1<sup>st</sup> Grade, Beri (respondent No.3) by the Naib Tehsildar, Beri on 17.01.2014 which was signed by the Naib Tehsildar, Block Development and Panchayat Officer and Girdawar Halqa, Beri. In the report, it was found that the petitioner had constructed a house in the disputed street which is shown in the site plan in red colour. It indicates that the wall with the gate is 6 feet in the street and is adjoining the house of Mange Khati and the wall is extended further 5 feet in the street. The Nambardar and other residents of the village who were present

at the spot had also admitted unauthorised possession of the petitioner and it was, thus, clear that the petitioner is in unauthorised possession in 'gali shamlat'.

The photograph, which has been handed over by learned counsel for the petitioner, is also of no help to the case of the petitioner in any manner. It is apparent from the photograph that the petitioner has constructed an elevation which is leading to the gate of his house.

In view of the above, since the petitioner had encroached upon the street and was found to be in unauthorised possession thereon, the impugned orders cannot be faulted.

Resultantly, the petition stands dismissed.

**(RAKESH KUMAR JAIN)**  
**JUDGE**

**(ANUPINDER SINGH GREWAL)**  
**JUDGE**

17.12.2018  
Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No