

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

122

CWP No.4458 of 2019

Date of Decision:20.02.2019

Durga Devi

....petitioner

Versus

State of Haryana and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARUN MONGA

Present: Mr.Abhimanyu Batra, Advocate
for the petitioner

ARUN MONGA, J.(ORAL):

The present petition has been filed, inter alia, for issuance of a writ in the nature of mandamus to direct respondents No.1 to 5 to remove the encroachments carried out by private respondents No.6 and 7 on the public land of Irrigation Department i.e. Jind Water Services Department, Jind.

2. The petitioner contends that on the land of irrigation department, adjoining her house, her neighbour has raised an illegal construction which has blocked the passage to her house. Learned counsel for the petitioner states that the said passage is a “*public rasta*”.

3. Feeling aggrieved by inaction of the Irrigation Department, the petitioner filed an application under Section 133 of the Code of Criminal Procedure (for short, “Cr.P.C.”), before the Sub-Divisional Magistrate, Jind (SDM, Jind), which was disposed of vide order dated 25.07.2017 (Annexure P10). Vide the said order dated 25.07.2017, the SDM Jind, observed that in his opinion, there is no public trouble and therefore, no case under Section 133 Cr.P.C. was made out. Accordingly, application of the petitioner was dismissed. However, while dismissing the application, SDM, Jind, directed

the concerned officer of the Irrigation Department that demarcation of the disputed land be carried out. It was further directed that upon demarcation, if it is found that respondents No.6 and 7 are in adverse possession, then appropriate action be taken before the competent Court.

4. Keeping in view the nature of order Annexure P/10, passed by the SDM, Jind, issuance of formal notice is not warranted as no further pleadings are required in this case and there is no need of passing any fresh orders against any of the respondents. The present petition is disposed of with a direction to respondent No.5-Sub Divisional Canal Officer, Jind Water Services, Sub Division, Jind, to take appropriate action as has been observed in the order dated 25.07.2017 (Annexure P10) passed by the SDM, Jind. Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

5. Disposed of accordingly.

(ARUN MONGA)
JUDGE

February 20, 2019
neenu

Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No