

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

**Civil Writ Petition No. 11032 of 2016 (O&M)
Date of Decision: 30.04.2019**

Sant Ram

..... Petitioner

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present: Mr. Naveen Batra, Advocate
for the petitioner.

JASWANT SINGH, J.

1. The petitioner, by filing of the instant writ petition, is seeking quashing of order dated 20.08.2015 (**Annexure P-4**) passed by the Joint Development Commissioner (IRD), Mohali (respondent No. 2), while dismissing the appeal filed by the petitioner under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (**in short “The Act, 1961”**) for setting aside the order dated 22.11.2013 (**Annexure P-3**) passed by the District Development and Panchayat Officer (Exercising the powers of Collector), (Panchayat Land), Roopnagar (respondent No. 3), whereby the petition filed by the Gram Panchayat for dispossession of the petitioner from land in dispute has been allowed; **as also** directions to the Gram Panchayat Talwara, Tehsil Nangal, District Roopnagar through its Sarpanch (respondent No. 4) not to interfere in the peaceful possession of the petitioner over the land in dispute.

2. It is averred that the Gram Panchayat (respondent No.4) maintained a petition under Section 7 of the “The Act, 1961” for eviction of

the petitioner from the land in dispute comprising in Khewat/Khatauni No.782/973, Khasra No.782 Min. (1-2), situated in village Talwara, Hadbast No.279, Block Anandpur Sahib, Tehsil Nangal, District Roopnagar. The petitioner contested the case filed by the Gram Panchayat and he took the clear cut stand that land in dispute was situated in Khasra No.786 and he was in exclusive possession of the suit land. Demarcation of suit land was also conducted by retired *Kanungo*, who was appointed as Local Commissioner by the Civil Court, Anandpur Sahib in the Civil Suit No. 1479 of 2004 titled as "*Kamal Dev Sharma Vs. Sant Ram*", while dismissing the suit vide judgment and decree dated 05.12.2007 (**Annexure P-2**) on the basis of that Demarcation Report, wherein it was stated by Local Commissioner that the petitioner did not encroached any portion of Khasra No. 782, as alleged by the Gram Panchayat (respondent No. 4).

Moreso, a perusal of the order dated 05.12.2007 (**P-2**) clearly depicts that the petitioner has not encroached the suit land, rather the report also shows that seven (07) marla of land is lying vacant at the spot, out of which, some area has been included in the passage i.e. Khasra No.786 and the said area is lying vacant at the spot. The petitioner clearly stated that he is owner in possession of land and the report of the Local Commissioner shows that the Gram Panchayat was not found in possession of any land at the spot. In this regard, the judgment and decree dated 05.12.2007 (**P-2**) passed by Civil Court of Additional Civil Judge (Sr. Division), Anandpur Sahib is available on the record.

However, without informing to the petitioner, the Gram Panchayat (respondent No. 4) conducted the demarcation of the disputed land on 03.05.2011 and on the basis of that demarcation, filed a

petition under Section 7 of “The Act, 1961” before the District Development and Panchayat Officer, Roopnagar (respondent No. 3), who passed the eviction order of the petitioner without considering the relevant facts and evidence of the case. The proceedings by the Revenue Authorities have been conducted by violating the principles of natural justice and there was no evidence that the petitioner has encroached the suit land.

3. We have heard learned counsel for the petitioner and have gone through the paper book very carefully.

It is abundantly clear that the Gram Panchayat (respondent No. 4) is the owner of Khasra No. 782. The petitioner has claimed his ownership and possession of Khasra No. 786. It is also crystal clear that a demarcation was got conducted by the petitioner in the Civil suit vide **Annexure P-1** and the Local Commissioner in that case conducted the demarcation of Khasra No.786 only and did not conduct demarcation of Khasra No.782 which is owned by the Gram Panchayat. As such, the Local Commissioner was supposed to conduct the demarcation of both the Khasra numbers to find out as to whether the land of the Gram Panchayat was encroached or not by the petitioner. However, during the proceedings under Section 7 of “The Act, 1961”, it came on the record that the petitioner has illegally possessed the land of the Gram Panchayat and the Courts below have rightly under “The Act, 1961” passed the eviction order against the petitioner. The petitioner was not prevented to seek the order of demarcation of his land as well as land of the Gram Panchayat during the proceedings before the Collector to vindicate his stand that he has not encroached any inch of land of the Gram Panchayat, but interestingly the petitioner did not choose to seek the appointment of Local Commissioner to prove his stand

and it goes to show that the petitioner had intentionally did not move any fresh application for appointment of Local Commissioner to keep the best evidence away from the Court.

4. As such, in the instant case, we find nothing wrong on the basis of which it could be said that impugned orders are erroneous and are required to be interfered by this Court.

In the totality of the facts and circumstances as discussed by us, the instant **petition** is hereby **dismissed**.

(JASWANT SINGH)
JUDGE

April 30, 2019
'dk kamra'

(ARUN KUMAR TYAGI)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>