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

**CWP No.14846 of 2018
Date of Decision: 23.05.2019**

Ram Kumar

Petitioner

Versus

State of Haryana and others

Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH, JUDGE
HON'BLE MR. JUSTICE AVNEESH JHINGAN, JUDGE**

Present: Mr. J.C. Malik, Advocate
for the petitioner.

Mr. Rajeev K. Doon, A.A.G., Haryana
for respondents No.1 to 7-State.

Mr. Satish Chaudhary, Advocate
for respondents No.8 and 9.

Mr. S.S. Kharab, Advocate
for respondents No.10 to 15.

JASWANT SINGH, J. (Oral)

The petitioner is resident of Village Jhattipur, Tehsil Smalkha, District Panipat. He stated to have filed a petition under Section 7(2) of the Punjab Village Common Lands Regulation Act, 1961, seeking ejectment of the private respondents No.9 to 15 herein, from the *shamlat* land comprised in *khewat* No.466/587, *Khasra/ Killa* No.104 (14-18), *Gair Mumkin Johar*, situated in the revenue estate of village Jhattipur, as per *Jamabandi* for the year 2014-15.

[2] The allegations in the eviction petition are that the private respondents are relatives of the *Sarpanch* and with his connivance, they have continued to remain in unauthorized possession of the *Panchayat* land.

[3] Since the eviction petition was making no headway, the present petition has been filed seeking *Mandamus*, for an early disposal.

[4] After notice, during the course of proceedings on 28.11.2018, following order was passed:

“Reply on behalf of respondents No.8 & 9 filed in Court today is taken on record.

Learned counsel for the respondent state that petitioner himself is an encroacher and this fact has not been controverted by the petitioner. We would have ordinarily dismissed his petition considering that the petitioner has concealed this fact and seeks eviction of the others by describing them as encroachers. It has been disclosed to us that the petitioner himself is facing proceedings under Section 7 of the Punjab Village Common Lands Regulation Act. Learned counsel for the petitioner prays for some time.

Adjourned to 17.04.2019.

In the meantime, we direct the authority before whom proceedings under Section 7 are pending to conclude the same before the next date of hearing and if the petitioner is found to be in unauthorized possession then the order of eviction be executed forthwith.”

[5] Thereafter, on 22.04.2019, following order was passed:-

“Let the Deputy Commissioner, Panipat file his/her affidavit detailing (i) the total land comprised in

khasra No.82 and khasra No.104 in the revenue state of Jhattipur, Tehsil Smalkha, District Panipat, as also the nature of use recorded as on today, (ii) the demarcation reports with regard to the encroachments of portions of land in both the aforesaid khasra numbers, (iii) the action initiated by the authorities for the eviction of the identified unauthorised occupants of Panchayat land in both the aforesaid khasra numbers and (iv) the reasons for delay in completing the eviction proceedings, if any, already initiated.

It is clarified that if the required affidavit is not filed, then the officer concerned shall be personally present on the next date of hearing.

Adjourned to 23.05.2019.”

[6] In compliance with the above directions, affidavit dated 10/15th May, 2019 of the Deputy Commissioner, Panipat has been filed. Paragraphs No. 2 and 3 of the same, read as under:-

“2. That on receipt of the above said order, the deponent got the land in question demarcated with D.G.P.S. (Differential Global Positioning System) Machine under the supervision of Tehsilar, Samalkha after getting the revenue records of the above said khasra numbers verified from the Tehsildar, Samalkha, wherein the nature and encroachment of the above said khasra numbers was found as following:-

*a. That **Khasra No.82**, Gair Mumkin Johar, Total Area 45 Kanal 4 Marla out of which 38 Kanal 0 Marla is being used as Gair Mumkin Johar at present and on 7 Kanal 04 Marla of the land, Gair Mumkin is constructed at present as per the demarcation report. However, it is submitted that at present 30 Kanal 0 Marla of land is actually being used as Johar, and rest of the land of the Johar is illegally occupied byt eh petitioner including the 7 Kanal 0 Marla of land where Mandir is constructed. It is also submitted that the*

above mentioned land of Gair Mumkin Johar i.e. 30 Kanal 0 Marla which is not under illegal occupation of any person is also without water. Other than this land, 30 persons were found in unauthorized occupation by way of construction of houses and boundary walls on an area of 9225 Sq. Yards. However, practically 43 persons are occupying the encroached area as their names are shown in the demarcation report jointly.

*b. That **Khasra No.104**, reserved as Gair Mumkin Bethak Maveshiyan (Cattle seating place), Area 14 Kanal 18 Marla as per Fard Jamabandi for the year 2017 dated 02.05.2017. On his land 36 persons were found in unauthorized occupation by way of constructions of houses and boundary walls on an area of 7682 Sq. Yards. However, practically 57 persons are occupying the encroached area as their names are shown in the demarcation report jointly. The demarcation report dated 01.05.2019 is annexed as Annexure R-1 and the report from the Patwari regarding the nature of the land comprised in khasra numbers 82 and 104 mentioned above is annexed as Annexure R-2 for kind perusal of this Hon'ble Court.*

c. That for removal of the encroachment from khasra No.82 and 104, two cases U/s 7 Punjab Village Common Land Act, 1961 have been instituted in the Court of Assistant Collector, 1st Grade, Samalkha and these cases are fixed on 17.05.2019 for notice to the respondents. It is further submitted that earlier the eviction proceedings were instituted by the petitioner namely Ram Kumar based on the demarcation report dated 10/10/2017, which was found incorrect as the machine with which the said demarcation was conducted was defective as per the report No.765/OK, dated 04.01.2018 of the Tehsildar, Samalkha which is

annexed as Annexure R-3. Therefore, the eviction proceedings could not be completed earlier.

3. That the deponent will ensure the completion of the eviction proceedings at the earliest and will also ensure that encroachments on the above said khasra numbers is removed as per rules as soon as the eviction order are passed by the Court of Assistant Collector, 1st Grade, Samalkha Distt. Panipat.”

[7] At the time of hearing we are satisfied with the veracity of demarcations got conducted by the Deputy Commissioner, Panipat qua *khasra* numbers 82 and 104.

[8] Keeping in view the limited prayer made by the petitioner, we are inclined to dispose of the present writ petition with the direction to the Assistant Collector concerned of Samalkha as well as Panipat for disposing of all the eviction petitions pertaining to encroachment in the *khasra* numbers 82 and 104 of revenue estate of Village Jhattipur, Tehsil Samalkha, District Panipat, expeditiously, preferably within six months.

[9] Ordered accordingly.

[JASWANT SINGH]
JUDGE

[AVNEESH JHINGAN]
JUDGE

May 23, 2019

pankaj baweja

1. Whether speaking/ reasoned	:	Yes/ No
2. Whether reportable	:	Yes/ No