

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

224

**CWP No.21968 of 2016 (O&M)
Date of Decision: 06.02.2019**

Baldev Raj and others

.....Petitioners

Versus

Commissioner-cum-Director Rural Development & Panchayat, Punjab
and others

.....Respondents

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

Present : Mr. G.L. Bajaj, Advocate
for the petitioners.

Ms. Anu Pal, DAG, Punjab
for respondents No.1 and 2-State.

Mr. Vivek Chauhan, Advocate
for respondent No.3-Gram Panchayat.

JASWANT SINGH, J. (ORAL)

1. The three petitioners were evicted from the land in question comprised in Khewat No.57, Khatoni 11, Khasra No.45 measuring 01 kanal 02 marlas situated in Village Phangarian, Hadbast No.191, Tehsil and District Pathankot, vide order dated 19.05.2014 (**Annexure P/3**) passed by the District Development and Panchayat Officer, Pathankot (exercising the powers of Collector) on the application filed by the Gram Panchayat under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short "1961 Act"), on the ground that the said land is described in the jamabandi for the year 2005-06 (Ex.P1) as Gair Mumkin Hada Rori under the ownership of the Gram Panchayat. The petitioners, based on the demarcation report dated 17.08.2015, were found to be in unauthorised possession

of the aforesaid land and were ordered to hand over vacant possession within 30 days apart from Rs.1 lac as compensation for the unauthorised possession. The order (**Annexure P/3**) was confirmed in appeal decided by the Director, Rural Development and Panchayats, Punjab (exercising powers of the Commissioner) under the 1961 Act, vide order dated 05.09.2016 (**Annexure P/4**) while dismissing the appeal of the petitioners/appellants.

Hence the present writ petition was filed impugning the orders Annexure P/3 and P/4.

2. The contention on behalf of the petitioners at the time of first hearing on 22.10.2016 was primarily that the demarcation had been conducted behind their back and not as per rules and procedure. It was submitted that if fresh demarcation is got conducted by this Court, the petitioners would abide by the findings of that report and vacate the portion accordingly. The order dated 22.10.2016 reads as under:-

" Contends that in the proceedings under Section 7 of the Punjab Village Common Lands (Regulations) Act, 1961 no demarcation was got done and rather demarcation of 2005 was taken into consideration with which proceedings the petitioners were not associated. Further contends that they are willing to get the demarcation done and in case they are found to be in unauthorised possession of any portion of the panchayat land, they are willing to vacate that portion even if constructed area exists thereon and recompense the panchayat for the use and occupation of the land.

Notice of motion for 30.01.2017.

In the meantime, Tehsildar concerned is directed to carry out fresh demarcation at the expense of the petitioners. The petitioners would be required to deposit the necessary charges within two weeks. Whereupon the Tehsildar shall either himself or through a responsible revenue officer demarcate the area in the presence of the petitioners and all the affected parties including the members of the

panchayat.

It is made clear that result of the demarcation report should be the basis of final determination of the proceedings against the petitioners on the issue of unauthorised occupation and in view of what has been asserted before us by the learned counsel for the petitioners they would be required to vacate the premises and even compensate the panchayat for remaining in possession of the panchayat land.

Demarcation report be submitted to the Court on the next date of hearing.

Till the next date of hearing status quo be maintained. "

3. The Tehsildar, Pathankot, in compliance of the aforesaid directions got conducted a fresh demarcation on 04.10.2017 in the presence of the parties according to the procedure of the Land Revenue Act and report in this regard is placed on record as **Annexure R-2** with his reply/affidavit dated 01.11.2017.

As per the demarcation report Annexure R-2, the three petitioners have been found to be in unauthorised possession of 04 marlas of Panchayat land, whereupon there are constructions of shops, one shed and popular trees.

4. On 08.03.2018, this Court in the light of the stand of the petitioners as noticed in the order dated 22.10.2016 reproduced hereinabove were required to vacate the area in their unauthorised possession found as per demarcation report Annexure R-2; as also remove the constructed portions, directed the Tehsildar concerned to ensure to do the needful within two months from 08.03.2018.

5. Thereafter, affidavit dated 08.08.2018 of the Tehsildar, Pathankot stands filed. Along with affidavit the proceedings dated 20.04.2018 (**Annexure R-2/T**) have been annexed reporting that the area under unauthorised possession was measured on the spot and the

occupants were made to remove their belongings from the shops and thereafter the demolition was got undertaken with the help of JCB Machine. The exercise was undertaken in the presence of everybody without any objection and the possession of the said 04 marlas of land was delivered to the Panchayat. Para 4 of the same reads as under:-

“ That as per the Map attached with the file, the area under the unauthorised possession was measured on the spot and everybody present on the spot accepted it. Then all occupants of the shops were asked to remove their belongings from the shops and vacate the shops. After vacating the shops the shops were demolished with the help of JCB Machine. Nobody objected to this operation and the possession of the land was delivered to the Panchayat. Their signatures were obtained on the report. Copy of the original report is annexed herewith as Annexure R-2. ”

6. Learned State counsel as well as counsel for the petitioners state that in view of the aforesaid removal of encroachments over the said 04 marlas of land and handing over the possession to the Panchayat as also deposit of the amount of Rs.20,000/- in terms of the order dated 22.10.2016, nothing more survives for adjudication.

7. Counsel for respondent No.3/Gram Panchayat also acknowledges the aforesaid factual position.

8. In view of the aforesaid circumstances, the present writ petition is disposed of as infructuous.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

06.02.2019
Vinay-I

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No