

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

CWP-30519-2018 (O&M)
Date of Decision: 11.07.2019

Hawa Singh and others

. Petitioners

Vs.

Commissioner, Rohtak Division, Rohtak and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ARUN KUMAR TYAGI

Present: - Mr.Chanderhas Yadav, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J.

The petitioners have challenged the orders of the Assistant Collector, 1st Grade, Jhajjar dated 13.7.2010, Collector, Jhajjar dated 31.01.2012 and the Commissioner, Rohtak Division, Rohtak dated 04.06.2018 by which a petition filed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 [for short 'the Act'] by respondents No.4 to 6 has been allowed.

Learned counsel for the petitioners has submitted that the Gram Panchayat Maraut, Tehsil and District Jhajjar had passed a resolution on 28.6.2006 to demarcate the street in question with a view that in case any encroachment is found on both sides of the street then the same may be removed. It is submitted that the Naib Tehsildar Matanhail had demarcated gair mumkin Street No.221 vide his report dated 23.7.2006 and observed that the private respondents have encroached upon a part of it. However, no case was filed by the Gram Panchayat against them for recovering the possession of the alleged encroached area rather the private respondents had

filed a petition under Section 7 of the Act alleging the encroachment by the petitioners on the street in question. The said petition was contested by the petitioners and during the pendency of the same, the AC 1st Grade, appointed a Local Commissioner for the purpose of demarcation of the property in question. The Local Commissioner submitted his report on 13.11.2018 in which the petitioners were found in unauthorized possession of an area of the street in question. Although the petitioners had the opportunity to file objection to the report of the Local Commissioner and also to cross-examine the Local Commissioner in Court in order to challenge the veracity of the report but the petitioners did not lead any evidence as a result thereof, their evidence was closed vide order of the Court on 23.8.2007. Though they had filed an application to the AC 1st Grade for re-opening the evidence but the said order was not challenged and the AC 1st Grade, after taking into consideration the report of the Local Commissioner and the fact that the petitioners did not lead any evidence, passed the order of eviction on 13.7.2010.

Aggrieved against the said order, the petitioners filed their statutory appeal which has also been dismissed by the Collector, Jhajjar and further the revision petition filed by the petitioners before the Commissioner, Rohtak Division, Rohtak also met the same fate

Learned counsel for the petitioners has raised only one argument that the earlier demarcation report dated 23.7.2006 should have been considered instead of the demarcation report obtained by the AC Ist Grade himself.

We have heard learned counsel for the petitioners and after perusal of record, are of the considered opinion that there is no substance in his arguments as the earlier demarcation report prepared as far back as in the

year 2006, was not produced by the petitioners themselves as they were also supposed to examine the person, who had prepared the demarcation report rather the demarcation report obtained by the AC 1st Grade by appointing Local Commissioner, who had found that the petitioners were in illegal possession over the Panchayat land but despite an opportunity, neither the petitioners objected to the demarcation report nor they opted to lead any evidence as a result thereof, their evidence was closed and the order of closure of evidence was also not challenged by them before the higher Court and ultimately the AC 1st Grade had relied upon the report of the Local Commissioner in order to hold that the petitioners are in fact in unauthorized possession.

We do not find any error on the part of the AC 1st Grade and also in the orders of Collector and Commissioner, who have passed the subsequent orders upholding the order of the AC 1st Grade.

In view of the above, the present petition is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

11.07.2019

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*