

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

**CWP No.26260 of 2019
Date of decision: 15.01.2020**

Krishan

....Petitioner

Versus

Financial Commissioner Haryana and others

....Respondents

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

Present: Mr.Vijay, Advocate for the petitioner.

RAKESH KUMAR JAIN, J.(Oral)

The petitioner has challenged the order dated 16.9.2016 passed by AC Ist Grade Pataudi by which an application filed by respondent No.5 (Gram Panchayat) under Section 7 of the Punjab Village Common lands (Regulation) Act, 1961 (for short 'the Act') has been allowed, order dated 5.6.2017 passed by the District Collector, Gurugram dismissing the appeal of the petitioner, order dated 27.11.2017 passed by the Commissioner, Gurugram Division, Gurugram dismissing the revision of the petitioner and order dated 17.7.2019 passed by the Financial Commissioner by which the petitioner had withdrawn the revision petition bearing ROR No.180/2017-18.

In brief, the respondent No.5 filed an application under Section 7 of the Act seeking to evict the petitioner from land measuring 2 Marla falling in Khasra No.80/2 (Gair Mumkin Rasta) on the ground that the

petitioner is in unauthorised possession by way of raising construction. The order of the AC Ist Grade is based upon demarcation report which was carried out pursuant to the order of the Lokayukta, Haryana both manually and through DGPS instrument. In the demarcation report dated 29.04.2015, carried out as per the revenue record, mussavi and field book of consolidation, through DGPS machine by surveyor Gaurav Yadav and also prepared manually, the encroachment upon Khasra No.80/2 by various persons including the petitioner was found to the extent i.e. east-0 yards, west-5 yards, south-6 yards and north-6 yards total 0 kanals 2 marlas. The AC Ist Grade passed the order of eviction which was challenged by the petitioner in appeal but the District Collector, Gurugram upheld the order of AC Ist Grade after ensuring about the genuineness of the demarcation report through Halka Kanungo vide his order report dated 26.05.2015. The Halka Kanungo verified the demarcation report at the spot in the presence of the petitioner and other responsible persons of the village and filed his report dated 01.06.2017 that the petitioner has encroached upon 0 kanal 2 marlas land of the common path bearing Khasra No.80/2 which vests in Gram Panchayat. Still aggrieved, the petitioner filed a revision petition before the Commissioner of the Division in which it was, inter alia, contended that the demarcation was not conducted as per the provisions of Punjab Land Revenue Act, 1961 but the Commissioner, while referring to the various demarcation reports on record agreed with the orders passed by the Courts below and dismissed the revision petition. The petitioner thereafter filed ROR No.180/2017-18 before the Financial Commissioner but in the said petition he moved an application to withdraw the said petition which was

Learned counsel for the petitioner has vehemently argued that the demarcation report, on the basis of which, the initial order has been passed by the AC Ist Grade is not correct.

We have perused the demarcation report dated 29.04.2015 and are satisfied that the demarcation has been done after fixing the *pacca* point and in the presence of Sarpanch of the village Khasra No.80/2 (Gair Mumkin Rasta) was demarcated with the DGPS machine and manually also and the illegal possession of land measuring 0 kanal 2 marlas of the petitioner was found by raising construction of Tin shed, chabutara etc. by him. The petitioner had been making allegations one after the other for seeking demarcation by the person named by him in the application but the fact remains that he could not find any fault in the demarcation report on the basis of which all the Courts below have found that the petitioner has raised construction on the area of 0 kanal 2 marlas which belongs to the Gram Panchayat being *Rasta Sare-aam*.

Thus, in view of the aforesaid facts and circumstances, we do not find any reason to interfere in the present petition and the same is hereby dismissed without any order as to costs.

(RAKESH KUMAR JAIN)
JUDGE

15.01.2020
Meenu

(ARUN KUMAR TYAGI)
JUDGE

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