

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 33916 of 2019

Date of Decision: 21.11.2019

Kura Ram and Another

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

**CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain.
Hon'ble Mr. Justice Suvir Sehgal.**

Present: Mr. Parminder Singh, Advocate
for the petitioner(s).

Rakesh Kumar Jain, J. (Oral)

This petition is directed against the impugned orders dated 27.05.2016 (Annexure P2) passed by the Assistant Collector Ist Grade, dated 30.08.2016 (Annexure P5) passed by the District Collector, Kaithal and dated 18.07.2019 (Annexure P6) passed by the Commissioner, Karnal Division, Karnal.

The private respondents have filed an application under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (for short “the Rules”) seeking eviction of the petitioners from the land in dispute on the ground that they have occupied the land which is meant for rasta and well, used for common purposes. At the time of filing of application, the private respondents had relied upon a demarcation report, but it was not accepted by the Civil Court in a suit filed by the petitioners for permanent injunction. However, the Civil Court had observed that fresh demarcation may be conducted in accordance with law and the petitioners may be proceeded against in accordance with law. Thereafter, a fresh demarcation was carried out in which it has been found that the petitioners are in unauthorized occupation of the land which is meant for rasta and well. The petitioners filed objections to the demarcation report, which were dismissed.

Thereafter, an application filed under Section 7(2) of the Act was allowed by all the Courts below by passing the impugned orders dated 27.05.2016, 30.08.2016 and 18.07.2019.

Counsel for the petitioners has submitted that Section 2(g)(4a) has been added in the statute vide Act No. 15 of 1983 w.e.f. 12.02.1981, therefore, the land in dispute cannot be declared as *shamlat deh*. The contention of the petitioners is that they are in possession of the land prior to 1981.

We have heard counsel for the petitioners and after perusal of record, are of the considered opinion that the argument raised by the petitioners is totally ill-founded because there is no documentary evidence brought on record by the petitioners to prove that their possession is prior to year 1981. Moreover, the findings have been recorded by the Courts below that the land in which the petitioners have been found to be in an unauthorized occupation was recorded as rasta and also well which are admittedly being used by the villagers for common purposes.

Thus, in view of above, we do not find any merit in this writ petition and the same is hereby dismissed though without any orders as to costs.

(Rakesh Kumar Jain)
Judge

(Suvir Sehgal)
Judge

November 21, 2019
“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No