

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.32453 of 2019

Date of decision: 08.11.2019

Gram Panchayat Majra

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE SUVIR SEHGAL

Present: Mr.Munish Puri, Advocate for the petitioner.

RAKESH KUMAR JAIN, J.(Oral)

The petitioner Gram Panchayat has prayed for issuance of a writ in the nature of mandamus directing respondents No.1 to 6 to act in accordance with law to protect the Panchayat land and also to restrain the private respondents from encroaching upon Panchayat land comprised in Khewat No.379, Khasra No.59/2, measuring 7 Kanals 18 Marlas, Hadbast No.137 and also to direct respondents No.3 and 4 to initiate appropriate legal action against the private respondents for allegedly forcefully cultivating the land on 12.09.2019.

In brief, the petitioner has averred that on 12.9.2019, some anti-social persons of the village (private respondents) were found cultivating the land under the Gram Panchayat with the help of tractor. The petitioner made an application to the Deputy Commissioner, Pathankot in this regard. The Deputy Commissioner marked the

complaint of the petitioner to the DDPO, Pathankot who further directed the BDPO to visit the spot to make an enquiry. The BDPO had allegedly conducted the spot inspection and found that the land belonging to School was cultivated with the help of tractor and forwarded the report to the DDPO vide letter No.2294 dated 13.9.2019. After perusal of the report, the DDPO directed the BDPO vide its letter No.7617 dated 17.09.2019 to contact the concerned police officer for conducting proceedings in terms of Section 13-A of the Punjab Village Common Land (Regulation) Act, 1961 (for short 'the Act'). It is further averred that BDPO, vide its letter No.2321 dated 17.9.2019, asked the SHO P.S.Taragarh to initiate legal action against the wrong-doers. The grievance of the petitioner is that no action thereafter has been taken, therefore, he has prayed for a direction to respondents No.1 to 6 to initiate the proceedings to protect the panchayat land and take appropriate action against the private respondents for illegally cultivating the Panchayat land on 12.09.2019. At the same time, the petitioner has also prayed for restraining the private respondents from encroaching upon the Panchayat land in future.

We have heard learned counsel for the petitioner and have perused the record carefully.

The petitioner has referred to Section 13-A of the Act. A careful perusal of the aforesaid provision shows that if there is any kind of mischief or criminal activity by a person, by entering into the the land, which is deemed to have been vested in the Panchayat then it would be an

cognizable offence. It is no-where mentioned in this provision as to who has to register the case against the wrong-doer. Thus, in our considered opinion, if the proceedings have already been initiated by the Authorities vide letter Annexure P-5, the same should be considered and for that matter, respondent No.5 may take appropriate steps but insofar as, the prayer of the petitioner for restraining the defendants from encroaching upon the panchayat land is concerned, the writ petition is not maintainable because the petitioner has a remedy in civil law by filing a suit for permanent injunction against such persons who intends or are likely to interfere into the peaceful possession of the Gram Panchayat. Therefore, the writ petition is hereby dismissed.

(RAKESH KUMAR JAIN)
JUDGE

08.11.2019
Meenu

(SUVIR SEHGAL)
JUDGE

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