

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

CWP No.2755 of 2020 (O&M)

Date of Decision: 26.02.2020

BALWINDER SINGH AND OTHERS

..... Petitioners

V/s.

***DIRECTOR RURAL DEVELOPMENT & PANCHAYAT DEPARTMENT,
PUNJAB, VIKAS BHAWAN, SECTOR 62, SAS NAGAR, MOHALI
(EXERCISING THE POWERS OF COMMISISONER UNDER THE
PUNJAB VILLAGE COMMON LANDS (REGULATION) ACT, 1961)
AND OTHERS.***

....Respondents

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**
 HON'BLE MR. JUSTICE ASHOK KUMAR VERMA.

Present: Mr. Avtar S. Khinda, Advocate,
 for the petitioners.

RAKESH KUMAR JAIN, J. (Oral)

This petition is directed against the orders dated 14.06.2019 and 08.11.2019 passed by the revenue authorities while allowing the petition filed by the Gram Panchayat under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short “the Act”).

In brief, the Gram Panchayat filed a petition under Section 7 of the Act for seeking eviction of the petitioners from the land falling in khasra numbers 185(7-19), *Gair Mumkin Phirni*, as per Jamabandi for the year 2016-2017. During the pendency of the petition, the Gram Panchayat made an application for conducting a fresh demarcation by the Naib Tehsildar. The said application was allowed and the fresh demarcation was conducted by the Naib Tehsildar on 08.06.2019 as per which the petitioners were found in possession of the land of *phirni* to the extent mentioned in the said report.

The petitioners, however, had relied upon the earlier demarcation reports

dated 13.07.2018 and 05.12.2018 but the report submitted by the Local Commissioner, appointed by the Court, without any objection filed by the petitioners, was accepted and the petitioners were ordered to be evicted from the land in dispute.

The petitioners, thereafter, filed the statutory appeal in which they have averred that there is an illegality committed in demarcation of the land in dispute but it is nowhere mentioned about the nature of illegality committed.

During the course of arguments, counsel for the petitioners has submitted that the petitioners were not associated by the Local Commissioner. This appears to be an afterthought argument of the petitioners because it is nowhere mentioned in grounds of appeal filed before the lower appellate Court that the petitioners were not associated at the time of demarcation conducted by the Local Commissioner. Moreover, no such argument was raised by the petitioners before the lower appellate Court that either they were not associated at the time of demarcation by the Local Commissioner or the demarcation was not conducted in terms of the instructions of the Financial Commissioner. As a matter of fact, there was hardly any issue raised by the petitioners before the lower appellate Court except for alleging that the demarcation was illegal. Accordingly, the appeal filed by the petitioners was also dismissed.

The petitioners have now raised an issue that the demarcation was not conducted as per the instructions issued by the Financial Commissioner. This argument of the petitioners cannot be accepted because the opportunity was available with the petitioners to file objections, in terms of provisions of the Code of Civil Procedure, 1908, against the report

submitted by the Local Commissioner who could have been examined as a witness in the Court as well and the petitioners could have also raised this issue before the lower appellate Court but from the perusal of the Grounds of Appeal, we do not find any averment made in this regard.

The judgement relied upon by the counsel for the petitioners passed by this Court in the case of **Pritam Kaur** Vs. **Commissioner, Rohtak Division, Rohtak and Others** is not applicable to the present case because the petitioners have not build their case on the issue which is being raised on the point of law.

Thus, in view of the aforesaid facts and circumstances, there is hardly any merit in this petition for interference in the impugned orders and therefore, the present petition is hereby dismissed.

[RAKESH KUMAR JAIN]
JUDGE

February 26, 2020
Ess Kay

[ASHOK KUMAR VERMA]
JUDGE

<i>Whether speaking / reasoned</i> :	Yes	/	No
<i>Whether Reportable</i> :	Yes	/	No