

211 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.24968 of 2016(O&M)
Date of decision: 15.01.2020

Satya Devi and others

...Petitioners

Versus

State of Haryana and others

...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'ble Mr. Justice Ashok Kumar Verma**

Present: Mr. I.S.Pabla, Advocate, for the petitioners.

Ms. Palika Monga, DAG, Haryana
for respondents No.1 to 4-State.

Mr. R.S.Longia, Advocate,
for respondent No.5-Gram Panchayat.

Mr. Narender Singh, Advocate, for respondents No.6 to 11

Rakesh Kumar Jain, J. (Oral)

The petitioners are aggrieved against the order dated 24.03.2015 (Annexure P-5) passed by the Commissioner, Ambala Division, Ambala whereby the order of Collector, Kurukshetra dated 30.04.2013 (Annexure P-3) remanding the case to Assistant Collector 1st Grade, Kurukshetra for a fresh demarcation has been set aside.

In brief, the private respondents herein had filed a petition under Section 7 (2) of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act') against the petitioners for seeking their eviction from the land in question on the ground that the same is shamlat deh and vests in the Gram Panchayat. The said petition was dismissed by the Assistant Collector 1st Grade Kurukshetra, vide order dated 18.05.2011. The private respondents filed an appeal before the Collector, Kurukshetra. The Collector, Kurukshetra, allowed the appeal vide order dated 30.04.2013 and remanded the matter to Assistant Collector, 1st Grade, Kurukshetra with

a direction to conduct fresh demarcation to find out the alleged encroachment by the petitioners.

Aggrieved against this order, two revision petitions were filed by the both sides before the Commissioner Division, Ambala. The revision petition filed by the petitioners was dismissed whereas the revision filed by the private respondents was allowed because the Commissioner, Kurukshetra had directed that the demarcation report dated 13.06.2001 has to be implemented for the purpose of removing the unauthorized occupation on the shamlat deh.

Counsel for the petitioners has submitted that there were two more demarcations of the year 2006 and 2007 on record but the same were not dealt with by the authorities below who have ordered fresh demarcation. It is further submitted that the subsequent demarcation of the year 2007 did not establish any unauthorized occupation by the petitioners over the said Phirni.

After notice, the respondents have put in appearance.

Counsel for the respondents has submitted that the argument of the petitioners that the demarcation report dated 03.06.2001 has been wrongly relied upon solely by the Commissioner while setting aside the order of the learned Collector in the presence of demarcation of the years 2006 and 2007.

Learned counsel appearing on behalf of the respondents has not contested the petition and rather prayed that the order dated 24.03.2015 passed by the Commissioner Ambala Division, Ambala be set aside and the order of learned Collector, Kurukshetra may be implemented by which he had remanded the case back to the Assistant Collector, 1st Grade,

Kurukshetra for the purpose of fresh demarcation to find out as to whether the petitioners have encroached upon any part of the shamlat deh or not.

Thus, in view of the facts and circumstances, this petition is allowed and the impugned order passed by Assistant Collector, 1st Grade, Kurukshetra is set aside and as a result thereof, the order passed by the Collector, Kurukshetra has become operative.

At this stage, the only prayer of counsel for the private respondents is that the respondent (Assistant Collector, 1st Grade, Kurukshetra) may be directed to expedite the trial of the case.

Prayer made by the private respondents is accepted and we direct the Assistant Collector, 1st Grade, Kurukshetra to decide the trial, expeditiously.

[RAKESH KUMAR JAIN]
JUDGE

[ASHOK KUMAR VERMA]
JUDGE

15.01.2020
hemlata

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