

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-4299-2021

Date of decision: 07.04.2021

(PROCEEDINGS THROUGH V.C.)

Jagdish Lal and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

PRESENT: Dr. Naresh Kaushik, Advocate for the petitioners.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

Mr. V.K. Sandhir, Advocate for respondent No. 4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

On 15.03.2021, following order was passed:

“On 24.02.2021, following order was passed:-

“ Learned counsel on instructions from the petitioners states that let a fresh demarcation be carried out and in case, the demarcation report indicates encroachment by the petitioners on the path (phirni) i.e. Khasra No.129, the petitioners would vacate the same forthwith.

Let the petitioners file an affidavit to this effect within one week.

List on 02.03.2021.

In the meanwhile, status quo be maintained till

the next date of hearing.”

Thereafter, on 02.03.2021, affidavit dated 01.03.2021 of Jagdish Lal, petitioner No.1, has been filed on his behalf and other two petitioners, wherein it has been specifically stated as under in Paras 2 and 3:-

“2. That the petitioners undertake that if in fresh demarcation of land comprising in Khasra No.129, Khasra No.37//5,6, Khasra No.38//1,10,11 conducted by competent revenue authority, encroachment on path if any is found by petitioners, the same shall be vacated/removed.

3. That petitioners are defending for their plot in Khasra No.38/10 as per the registered sale deed and are not interested in any excess land. The land of the petitioners be measured and completed as per their records/sale deed. Beyond the plot petitioners are not interested.”

Counsel, who has put in appearance on behalf of respondent No.4-Gram Panchayat, states that the Gram Panchayat has no objection to the above prayer of the petitioners.

*Let the Tehsildar, Hoshiarpur, carry out the demarcation of the land in question on **25.03.2021 at 11.00 A.M.** It will be open to the parties to come present at the spot for demarcation of the land. In case any of the party does not come present, it would be the sole responsibility of said party and that would not be a ground for either asserting that the demarcation as carried out by the Tehsildar is not correct. It would also not be open to any of the parties to file objections to the demarcation report of the Tehsildar, especially in the light of the fact that the petitioners have filed affidavit with regard to vacation of Gram Panchayat land/public path in case they are found in*

possession thereof.

List on 05.04.2021.

Report be submitted by the Tehsildar before the next date of hearing.”

In pursuance thereof, affidavit of Sh. Harminder Singh, Tehsildar, Hoshiarpur, dated 03.04.2021 has been filed along with which is appended the demarcation report as well as the site plan showing the encroachment on the Gram Panchayat land. The report of the Local Commissioner has been appended as Annexure A-1 and the translation thereof, is Annexure A-1/T. The perusal of the above would show that the petitioners have been found to be in illegal possession/encroachment upon *Gair Mumkin Rasta* in Khasra No. 129. The details of the encroachment on the part of the petitioners have also been given. According to the said aspect, the petitioners have been found to have encroached upon 3' X 3' of the land which comes to 235 Sq. Feet.

In the light of this encroachment having been made by the petitioners as per the report, it is apparent that the petitioners have therefore, to abide by the undertaking which they had given to the Court and as recorded vide order dated 02.03.2021 and have been reiterated and reproduced in the order dated 15.03.2021.

Copy of the affidavit dated 06.04.201 of petitioner No. 1-Jagdish Lal has been received in Court, wherein he asserts that in case of the three feet area which is alleged to have been encroached by the petitioner on the North and South side of his plot, the total area of the land of the petitioner would be less than what has been purchased by him of which he is the owner. This contention of the petitioners cannot be

accepted and, therefore, is rejected in the light of the earlier order which has been passed by this Court.

In the light of the above, the present writ petition is dismissed. The petitioners as per the undertaking shall vacate the illegal possession forthwith, failing which direction is issued to the Deputy Commissioner, Hoshiarpur, to remove the encroachment of the petitioners within a period of two weeks from today. The vacant possession be handed over to the Gram Panchayat and it shall be ensured that there is no further encroachment in future also by the petitioners on Khasra No. 129.

(AUGUSTINE GEORGE MASIH)
JUDGE

April 07, 2021
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No