

(Proceedings through Video Conferencing)

Present : Mr.Sanjay Majithia, Senior Advocate with
Mr.Jatinder Sharma, Advocate &
Mr.Naresh Kaushik, Advocate
for the applicant-petitioner.

This application has been filed by the applicant-petitioner for review of the order dated 07.04.2021 whereby on the basis of demarcation report which was carried out at the asking of the petitioner on the orders of this Court where the petitioner had given an undertaking that in case the petitioner is found to have encroached upon khasra no.129 *gair mumkin rasta*, he would remove all encroachments forthwith. The detailed order in this regard was passed along with the statement of counsel for the petitioner supported by an affidavit of the petitioner. On a demarcation report submitted by the Tehsildar, it was concluded that the petitioner had encroached upon the land of *gair mumkin rasta* to the extent of 235 sq. ft.

Now the petitioner has approached this Court by way of present application by asserting that in the demarcation report, which has been submitted by the Tehsildar, what has been pointed out is that the construction by the petitioner is on the land which has been purchased by the petitioner and is not beyond the area as specified in the sale deed. This is being sought to be projected as ground for asserting that the petitioner has not encroached upon the *rasta*. Learned senior counsel has further submitted that the *rasta* in front of the house of the petitioner has width of 11' which is consistent all through as *gair mumkin rasta*. He, thus, contends that the order dated 07.04.2021 passed by this Court deserves to be reviewed.

We have considered the submissions made by learned senior

with him.

It may be true that the petitioner had purchased a particular piece of land with a specified area but that does not mean that the petitioner would be entitled to on the basis of the sale deed to encroach upon the public land. It is not in dispute that as per the record and the demarcation report which has been received by this Court in compliance with the order passed by this Court earlier, the applicant-petitioner has been found to be having encroached upon the *gair mumkin rasta* to the extent of 3 ' x 3' totalling 235 sq.ft. The detail in this regard has been mentioned in the demarcation report.

In the light of the above, we do not find any ground to review our order dated 07.04.2021 and dismiss the application irrespective of the fact that there is 11' wide *rasta* in front of the house of the petitioner as asserted by the petitioner.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

July 22, 2021

Davinder Kumar