

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

110 (PROCEEDINGS THROUGH V.C.)

Civil Writ Petition No.20941 of 2021

Date of Decision: December 16th, 2021

Ashwani Kumar Sood

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Ferry Sofat, Advocate
for the petitioner.

Ms. Monica Chhibber Sharma, Senior Deputy Advocate General,
Punjab.

Mr. Ajay Jain, Advocate
for respondent No.6.

AUGUSTINE GEORGE MASIH, J.

The present writ petition has been filed praying for issuance of a writ, order or direction in the nature of mandamus directing the official respondents to get illegal encroachment removed from the village common land (*shamlat* land) situated opposite to Gaudham Gaushala, Bhadson, which is alleged to have been illegally encroached upon by respondents No.7 and 8, who have constructed boundary walls and thus are in the process of taking possession thereof. It has further been stated that the petitioner has approached the official respondents by way of representation, on which recommendation has been made by the Principal Secretary, Local Government but no action thereon has been taken.

2. When the case came up for hearing before this Court, following order was passed on 12.10.2021:-

“Learned counsel for the State shall file the status report as the counsel for the petitioner has referred to a communication dated 29.06.2021 (Annexure P-5) in pursuance to the complaint of the same date which has been submitted by the petitioner, copy whereof is appended as annexure P-4 with the writ petition. According to the said communication, appropriate action was required to be taken by the Deputy Commissioner (Urban Development), Patiala and intimation send to the Director Local Government Department, Punjab.

List on 09.11.2021”

3. In pursuance to the said order, on 09.11.2021, the next date of hearing, counsel for respondent No.6 i.e. the Executive Officer, Nagar Panchayat, Bhadson, Patiala, appeared and informed the Court that notice has been issued to private respondents No.7 and 8 for having resorted to construction of boundary wall without taking proper sanction/approval of the competent authority, to which an undertaking was given by these private respondents that they would not proceed further with any construction except in accordance with law. Thereafter short reply by way of affidavit dated 13.12.2021 of the Executive Officer, Nagar Panchayat, Bhadson, District Patiala-respondent No.6, has been filed, where in paras 3 to 6 it has been stated as follows:-

“3. That the deponent thereafter requested the Revenue Authorities for the demarcation of the Land in question to find out as to whether there exist any Land owned by respondent No.6 and accordingly the demarcation proceedings were carried out. It is important to mention here that the petitioner was duly informed through written notice however, the petitioner was not found at home inspite of personal visit of the staff of respondent No.6 at least three time. The copy of

*the notice/intimation is annexed herewith as **Annexure-R-6/3**. It is important to mention here that the petitioner was telephonically informed regarding the date and time of the demarcation proceedings to be carried out by the Revenue Authorities. However, petitioner told that he is out of station and is therefore unable to attend the proceedings.*

*4. That the demarcation proceedings however, taken place on 23.11.2021 by Naib Tehsildar Bhadson and he has submitted his report dated 29.11.2021 in which it is categorically submitted that Khasra numbers mentioned in the petition are not owned by Nagar Panchayat and no land of Nagar Panchayat exists at the place or the site in dispute. The copy of the report is annexed herewith as **Annexure R-6/4**.*

*5. That even earlier also Naib Tehsildar has submitted his report that no land of Nagar Panchayat exists on the site in dispute. The copy of the said report is annexed herewith as **Annexure R-6/5**.*

6. That it is also respectfully submitted that although as per the report of the Revenue Authorities no land owned by Nagar Panchayat exists at the site of dispute. However, the answering respondent is duty bound to protect every inch of the Public land also undertakes not to allow any illegal or unauthorized construction.”

4. A perusal of the above would show that despite request having been made to the petitioner to join the demarcation proceedings, he has chosen not to do so. Telephonically he was informed about the date and time of the demarcation proceedings to be carried out by the revenue authorities. The demarcation was carried out on 23.11.2021 by the Naib Tehsildar, Bhadson, who submitted his report on 29.11.2021, copy whereof has been appended as Annexure R-6/4, according to which there is

no area of Nagar Panchayat in the khasra numbers which have been mentioned in the complaint/representation filed by the petitioner. It has further been stated that earlier also demarcation was carried out and the report dated 26.07.2021 (Annexure R-6/5) had been received from the Naib Tehsildar, Bhadson, where also it was clearly mentioned that no Panchayat/shamlat/Nagar Panchayat land of Bhadson falls in the khasra numbers as have been mentioned by the petitioner.

5. In the light of the above, we are of the considered view that the petitioner has approached this Court without verifying the factual aspect with regard to the ownership of the land of Nagar Panchayat, Bhadson, and has filed the present petition with a *mala fide* intention merely because the petitioner is a trustee of Gaudham Gaushala Trust registered at Bhadson and the land opposite to that Gaushala is the place where the boundary wall has been constructed by the private respondents probably impeding in the use of the extra land in front of the Gaushala.

6. Petitioner has wasted the valuable time of the Court and, therefore, the present writ petition is dismissed with ₹30,000/- as costs to be deposited with the High Court Legal Services Committee within a period of three weeks from today.

7. Copy of this order be sent to the Secretary, High Court Legal Services Committee.

(AUGUSTINE GEORGE MASIH)
JUDGE

December 16th, 2021
Puneet

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No