

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

CWP No.6826 of 2022

Date of Decision: 01.04.2022

Mahabir

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Shekhar Verma, Advocate
for the petitioner.

Mr. Samarth Sagar, Addl. A.G., Haryana.

SUDHIR MITTAL J. (ORAL)

The petitioner has been ordered to be evicted in proceedings initiated under Sections 3, 5, 5A and 11 of the Haryana Public Premises and Land (Eviction and Rent Recovery) Act, 1972. The date of the order is 27.05.2014 (Annexure P-13). Appeal was dismissed vide order dated 29.06.2017 (Annexure P-17). Thereafter, execution was preferred on 31.08.2017 in which the petitioner filed objections. The execution petition is still pending. This writ petition has been filed challenging the aforementioned orders on the ground that the demarcation report on the basis of which the orders have been passed was illegal.

Learned counsel for the petitioner has submitted that demarcation report dated 22.03.2011 was prepared *ex parte* and on the verbal order of the Tehsildar. Thereafter, the petitioner placed on record another demarcation report dated 06.05.2011 which was obtained on the orders of the concerned Tehsildar. This report was placed on record

before the Collector. Both the reports were contradictory. The later report held that there was no encroachment by the petitioner and that his possession was on land leased out by the Wakf Board. Thus, the Collector ordered another demarcation to be conducted but it was in fact never done. Subsequently, the eviction order was passed without implementation of the order to conduct another demarcation and reliance was placed upon the earlier demarcation report which was obtained *ex parte*.

Thus, it is apparent that eviction has been ordered on the basis of an illegal demarcation report. The Appellate Court has failed to take this material aspect into consideration. Objections in this regard have been filed before the Executing Court but no order has been passed thereon till date. Meanwhile, warrants of possession have been issued. Keeping in view the fact that order of eviction has been passed on the basis of an illegal demarcation report, the impugned orders deserve to be set aside.

The argument appears to be attractive but it cannot be accepted for the simple reason that the Appellate order dated 29.06.2017 is being challenged for the first time in the year 2022. The petitioner was aware that the order was passed on the basis of an alleged illegal demarcation report. Yet, he failed to challenge the same. The writ petition is thus, barred by delay and laches. Filing of objections before the Executing Court would not absolve him of his failure to challenge the order passed against him within reasonable time.

Thus, the writ petition is dismissed on the ground of delay and latches.

(SUDHIR MITTAL)
JUDGE

01st April, 2022
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No