

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

**CWP-7309-2022 (O&M)
Date of Decision: 29.08.2022**

MAHENDER SINGH

..... Appellant(s)

Versus

STATE OF HARYANA AND OTHERS

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Mr. S.K. Yadav, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. AG, Haryana.

Mr. J.P. Sharma, Advocate
for respondent no.5.

LISA GILL, J.

Prayer in this writ petition is for quashing of order dated 31.05.2012 (Annexure P-5), passed by the District Development and Panchayat Officer exercising the powers of Assistant Collector, First Grade, Narnaul - respondent no.4, order dated 19.09.2019 (Annexure P-7), passed by the Collector, District Mahendergarh at Narnaul - respondent no.3 and order dated 25.02.2022 (Annexure P-9), passed by the Commissioner, Gurugram Division, Gurugram - respondent no.2 whereby petition under Section 7(2) of the Village Common Lands Regulation Act, 1961, filed by Ved Parkash – respondent no.5 was allowed and appeal as well as revision filed by the petitioner were dismissed.

Petitioner has primarily assailed the orders on the ground that proper demarcation of the area had not been carried out. Pursuant to order dated 07.04.2022, passed in this writ petition, petitioner had filed affidavit

dated 11.04.2022 (Annexure P-11) stating therein that he was ready to bear the cost of demarcation to be carried out through Global Differential Positioning System and in case, it was found that petitioner is in illegal possession of the property in dispute, he would hand-over vacant possession of the said land within 10 days on submission of such report before this Court. Thereafter, it was directed vide order dated 19.04.2022 that demarcation of the area be carried out through the Global Differential Positioning System. Though a direction was issued to the Collector, District Mahendergarh at Narnaul to carry out demarcation of the land in question through Global Differential Positioning System within a period of six weeks on 19.04.2022, however, as per affidavit dated 29.07.2022/02.08.2022 of the Block Development and Panchayat Officer, it was reported that petitioner pursuant to order dated 19.04.2022 had written for appointment of Local Commissioner. Mr. Om Parkash, Retired Girdawar, LAC, Narnaul was appointed. Operator of the Global Differential Positioning System machine stated at the spot that it was not possible to carry out demarcation through said machine, therefore, demarcation was carried after making Gathaa. As per demarcation report dated 06.07.2022, which is attached alongwith said affidavit as Annexure R1, petitioner was not found to be encroaching over 'Ahata Nos. 92 and 97'.

Taking exception to the said report, the Collector, District Mahendergarh at Narnaul was directed by co-ordinate Bench to remain present in the Court to explain non-compliance of order dated 19.04.2022 passed by the Court inasmuch as to why demarcation was not carried out by the officials themselves and in case process of demarcation through Global Differential Positioning System was not possible, proper application should

have been filed before this Court highlighting the difficulties so faced and thereafter sought permission.

Pursuant thereto Collector, District Mahendergarh at Narnaul came present before this Court on 23.08.2022. Affidavit dated 22.08.2022 of Dr. Jai Krishan Abhir, IAS/District Collector, Mahendergarh at Narnaul was taken on record wherein it was explained that pursuant to order dated 02.08.2022, BDPO, Sihma was directed to conduct demarcation of Ahata Nos. 92 and 97 1932BK) by Global Differential Positioning System and submit report within two days. Copy of the same was forwarded to the Tehsildar Ateli. Demarcation was conducted on 11.08.2022 by Field Kanungo, Ateli with the help of DGPS machine by fixing of 'Lal Dora' and report dated 11.08.2022 is attached as Annexure R1 with affidavit. Persons, as named in para 5 of the affidavit dated 22.08.2022 including the petitioner, were found to be illegally encroaching upon Ahata No. 97. Notice in this regard is stated to have been issued to the said persons and it is assured that necessary action shall be taken in accordance with law. It is further stated that as reports dated 06.07.2022 and 13.08.2022 were at variance with each other, it was directed that appropriate action should be taken against erring officials. Though it is mentioned in para 10 of affidavit dated 22.08.2022 that Tehsildar, Ateli communicated that most of the demarcations are done through Local Commissioners, who are authorized to conduct the same in accordance with para No. 4.48 and 4.52, Chapter 4 of The Haryana Land Records Manual, unconditional apology for the default with an assurance that the same would not be repeated was tendered by respondent No.3. Unconditional apology tendered by respondent No 3 was accepted and matter adjourned for today at request of learned counsel for the petitioner.

Admittedly, petitioner, respondent no.5 as well as two others were found in illegal possession of the Gram Panchayat land. Learned counsel for the petitioner submits that in terms of affidavit 11.04.2022, submitted by the petitioner tin shed alongwith all other encroachment shall be removed and vacant, peaceful possession of land in question shall be handed over to the Gram Panchayat within two days from today.

Mr. J.P. Sharma, learned counsel for respondent no.5 submits that encroachment stated to be carried out by respondent no.5 shall also be removed and vacant, peaceful possession of the Gram Panchayat land handed over to respondent no.6. Mr. Raman Sharma, Addl. A.G., Haryana submits that as per report dated 13.08.2022, necessary action for removal of illegal encroachment by the two other persons namely Bhoop Singh and Vijay Singh stands initiated and necessary action shall be taken in accordance with law.

Keeping in view the facts and circumstances as above, we find no ground for interference by this Court. Writ petition is accordingly dismissed. However, report in respect to handing over of vacant, peaceful possession by the petitioner & respondent no.5 and action taken by the State in respect to removal of illegal encroachment by the other two persons be filed within 30 days. Writ petition be put up only for this purpose.

(LISA GILL)
JUDGE

(HARSH BUNGER)
JUDGE

29.08.2022
Sunil

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