

CWP No.9228 of 2022

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.9228 of 2022

Date of decision : 04.05.2022

Rajbala

.....Petitioner

VERSUS

State of Haryana and others

....Respondents

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

Present: Mr. Nipun Vashist, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J.

Challenge in this writ petition is to the order dated 27.01.2022 (Annexure P-11) passed by the Commissioner, Gurugram Division, Gurugram, whereby the revision petition filed by respondent No.5 – Braham Prakash son of Banwari Lal has been allowed setting aside the order dated 28.03.2018 (Annexure P-7) passed by the Assistant Collector 1st Grade, Kosli, dismissing the application of respondent No.5 filed by him under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, vide which he had sought eviction of the petitioner and order dated 23.10.2018 (Annexure P-9) passed by the Collector, District Rewari, dismissing the appeal of respondent No.5 and remitting the case back to the Assistant Collector 1st Grade, Kosli, with a direction to decide the matter afresh by hearing both the side and getting the land in question demarcated properly and that too, in his personal presence.

It is the contention of the learned counsel for the petitioner that the impugned order passed by the Revisional Authority is unsustainable as well-reasoned order was passed by the Assistant Collector 1st Grade, Kosli, dismissing the application for eviction preferred by respondent No.5 as also the order dated 23.10.2018 passed by the Collector, District Rewari dismissing the appeal. It is contended that the Assistant Collector 1st Grade, Kosli, proceeded on the well-defined report of demarcation which was carried out during the pendency of the proceedings before it and considering such demarcation, which has been carried out through Differential Global Positioning System (DGPS) machine, returned a finding that the petitioner was not in illegal/unauthorized possession of khasra No.180. It is contended that the findings, which have been recorded by the revenue authorities, could not have been unsettled by the Revisional Authority on conjunctures and surmises and therefore, impugned order dated 27.01.2022 (Annexure P-11) passed by the Commissioner, Gurugram Division, Gurugram, cannot sustain and deserves to be set aside.

This contention of the learned counsel for the petitioner cannot be accepted in the light of the well-reasoned and justified order dated 27.01.2022 (Annexure P-11) passed by the Revisional Authority, where, in para 6 thereof, it has been stated as follows:-

“6. The original order of Collector remitting the case on the ground that demarcation was four years old demarcation, is also without any jurisdiction. Even civil court judgment regarding demarcation was also ignored. However, this was not challenged and new demarcation

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was conducted. But any new demarcation must be fair to all the parties and be clear in its finding and explanation with proper procedure. It should also mention all persons in unauthorized possession instead of mentioning some owners are not in unauthorized possession. The demarcation must show and explain the road/street when revisionist is claiming that encroachment is in the middle of the road.”

The above observations of the Revisional Authority being based upon the records and the same required fresh decision by the revenue authorities, the said authority was justified in remitting back the case to the Assistant Collector 11st Grade, Kosli. The Revisional Authority is fully justified in directing the Assistant Collector 1st Grade to get fresh demarcation conducted in his personal presence so that the true picture with regard to the encroachment, if any, on khasra No.180 stands established as to whether it is so or not?

In view of the above, finding no merit in the present writ petition, the same stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

04.05.2022

Harish

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No