

CWP No.12163 of 2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CWP No.12163 of 2019
Date of decision : 16.03.2022

Krishan

.....Petitioner

VERSUS

State of Haryana and others

....Respondents

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

Present: Mr. Piyush Khanna, Advocate
for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

The present writ petition has been filed alleging that because of the blocking of the Nala, the fields of the petitioner are being flooded with water, because of which his crops are adversely affected, in fact he is unable to cultivate his land.

Upon notice having been issued to the respondents, reply by way of an affidavit of the Block Development and Panchayat Officer, Narwana, District Jind, dated 03.10.2019, stands filed, where, in the preliminary submissions, it has been stated as follows:-

“1. That the present petition has been filed for directing the respondents to restore the land comprised in Killa No.33/11 and 115/01 (Gurusar Road to Bachala Pond) in Village Ambarsar, Tehsil and Distt. Jind to its original agriculture use and not to change its nature in any manner. It has further been prayed that directions be

issued to remove all the bandh/sand dam and other constructions that have been allowed to come up on the land which has hindered the free natural flow of water towards Bachna pond in the village. In this behalf, it is submitted that the deponent has recently joined as Block Development and Panchayat Officer at Narwana on 19/09/2019. Hence the present affidavit is being filed on the basis of the record made available by the office and Gram Panchayat, Village Ambarsar, Tehsil Narwana. After the receipt of the notice of the present petition from the Hon'ble Court, the Sarpanch, Gram Panchayat, Ambarsar was directed to remove the unauthorised possession of the concerned encroachers from the land of Gram Panchayat, Ambarsar, comprised in Killa No.33/11 as the demarcation of the land comprised in Killa No.115/01 has not so far been got done by the Gram Panchayat despite repeated directions, in view of the demarcation report dated 14.05.2018 and any other hindrances/obstructions in the natural flow of water towards Bachana Pond of village. After great persuasions the concerned unauthorised occupants of the Panchayat Land comprised in Killa No.33/11 the Sarpanch, Gram Panchayat Ambarsar got removed the unauthorised possession from the land mentioned above and there is no hindrances/obstructions in the natural flow of water towards Bachana Pond. So far as the bandh/sand dam is concerned, it is submitted that the alleged sand dam was got constructed by the Administration in the year 2012 to save the lives and properties of the inhabitants including the petitioner. However, in case of over flow of water, the same is uplifted and poured in the Village Pond. There is no loss of any kind to the fields of the petitioner and any other inhabitants in any manner. No water in the fields of the

petitioner either accumulated previously or presently. The petitioner is getting produces from his fields. In case the alleged sand dam/bandh is removed, there would be loss to fields of various other inhabitants whereas there is no loss to the fields of petitioner. The land comprised in Killa No.33/11 is lying vacant and no person is allowed to use it in any manner. The nature of land in question has not been changed. I have also inspected the spot on 30.09.2019 and found that the information supplied by the Sarpanch, Gram Panchayat, Ambarsar qua the land comprised in Killa No.33/11 is based on the position at the spot. A copy of the writing given by the Sarpanch Gram Panchayat, Ambarsar is attached as Annexure D/1. The action for the demarcation of land comprised in Killa No.115/01 will be taken on priority basis preferably within one month and encroachment, if found, will be got removed as early as possible. Since there is no unauthorised possession over the land in Killa No.33/11 having been removed by the Sarpanch, Gram Panchayat, Ambarsar, the Sand Bandh has not caused any obstruction in the flow of water and in case of over flow of water, the same is up-lifted and poured in the village pond by the Administration/Panchayat at their own expenses without causing any kind of loss to any person of village including the petitioner, the land in question has not been used for any other purpose except its original purpose, the present petition is liable to be dismissed in the interest of justice.”

In the light of the above position, the grievance of the petitioner has been taken care of and therefore, the present writ petition, in our opinion, has been rendered infructuous.

Learned counsel for the petitioner has sought time to file

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response to the said affidavit, we do not find any justification for granting such time as the said affidavit was filed by the respondents way-back on 04.10.2019 but till date, response thereto has not been filed. In fact, perusal of the orders passed by this Court would indicate that the counsel for the petitioner had not appeared after 18.10.2019 despite the case having been taken up for consideration on 23.01.2020 and 19.12.2020.

In view of the above, the request of the learned counsel for the petitioner for adjournment is declined . The writ petition stands disposed of in the light of the reply filed by the respondents.

(AUGUSTINE GEORGE MASIH)
JUDGE

16.03.2022
Harish

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No