

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

**CR No.2382 of 2022 (O&M)
Date of decision: 13.07.2022**

Jagbir Singh and others

....Petitioners

Versus

Gram Panchayat and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sube S. Kaushik, Advocate
for the petitioners.

ARVIND SINGH SANGWAN J.

On oral request made by counsel for the petitioners, the main case, which is fixed for 18.7.2022, is taken up today for hearing.

CR-2382-2022 (O&M)

This petition has been filed, challenging the order dated 24.03.2022, passed by the Civil Judge (Sr. Division), Jind, dismissing the application filed by the petitioner/plaintiff under Order 39 Rules 1 and 2 CPC, with regard to possession over the 0 Kanal – 04 Marlas of land, comprising in Khasra No.258 as well as the order dated 31.05.2022 passed by the Additional District Judge, Jind, dismissing the appeal filed by the petitioners.

The petitioners/plaintiffs filed a suit for permanent injunction seeking decree to restrain the defendant No.1/Gram

Panchayat, from interfering in the possession of the petitioners. It is also submitted that the petitioners have built a house on Khasra No.258 (1K-7M), about 26 years ago and some land was lying vacant in front of their house measuring 0K-4M. It is the case of the plaintiffs/petitioners that on 16.07.2021, the petitioners got a demarcation done through a retired Naib Tehsildar and it was found that the Gram Panchayat has constructed the street over the 04 marlas of land in Khasra No.258, and therefore, the petitioners/plaintiffs took possession of this part of the land and have filed the present suit that the respondents be restrained from interfering in the possession of the plaintiffs/petitioners.

The Civil Judge (Sr. Division), Jind, dismissed the application under Order 39 Rules 1 and 2 CPC.

The appeal filed by the petitioners/plaintiffs before the Lower Appellate Court, Jind was also dismissed.

Counsel for the petitioners has argued that after the demarcation was done by the retired official, the Gram Panchayat has handed over the possession of the said 04 marlas of land and the petitioner has started raising some construction as is reflected in the photographs (Annexure P-3). It is further submitted that Khasra No.258 is under the ownership of the petitioners being *gair majrua* and therefore, the Courts below have wrongly declined to grant injunction to the petitioners. It is also submitted that the present petition may be allowed and the respondent/Gram Panchayat be restrained from demolishing the construction raised by the petitioners.

After hearing the counsel for the petitioners, I find no

merit in the present petition. Admittedly, the disputed land i.e. 04 marlas of land, comprising in Khasra No.258 is brick paved *gali* under the possession of the Gram Panchayat. A perusal of the photographs itself show that the petitioners have tried to raise a constructions over the land, which is underneath the brick paved *gali* of the village. The petitioners have failed to prove that after the Local Commissioner demarcated the land and found that it is the Gram Panchayat, which is in illegal occupation of the 04 marlas of land, the Gram Panchayat handed over the said land to the petitioners/plaintiffs, rather it is well settled principle of law that mere demarcation do not give any right to the petitioners to take the forcible possession of the land, which even as per the demarcation report is a brick paved *gali* in possession of the Gram Panchayat as the remedy with the petitioners is to seek a decree of possession of the land.

The contention of the petitioners that the Gram Panchayat has handed over the possession of the disputed land, is denied by the Gram Panchayat by saying that it is a public street and is being used by the villagers since long time.

Even otherwise, in the absence of any *prima facie* evidence that the petitioners have take the possession of the land at any point of time, it cannot be held that the petitioners are in possession of the land for which *ad interim* injunction can be granted as the photograph itself reveal that the old paver blocks are affixed over the entire dispute land and it was well within the knowledge of the petitioners when the *gali* was brick paved by the Gram Panchayat.

Rather the photographs further suggest that it is the

petitioners/plaintiffs, who without taking due process of law are trying to take forcible possession of the brick paved street.

In view of the above, I find no illegality or infirmity in the orders passed by both the Courts below and the present petition is accordingly, dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

13.07.2022

yakub

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No