

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

115 (PROCEEDINGS THROUGH V.C.)

Civil Writ Petition No.19132 of 2021

Date of Decision: January 19th, 2022

Jaspal Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

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

Present: Mr. Prateek Pandit, Advocate
for the petitioners.

Mr. S.P.S. Tinna, Additional Advocate General, Punjab.

Mr. V.K. Sandhir, Advocate
for respondent No.6.

AUGUSTINE GEORGE MASIH, J. (ORAL)

On the last date of hearing i.e. 20.12.2021, following order was
passed:-

“In compliance of the order dated 1st November, 2021, status report dated 17th December, 2021 by way of an affidavit of Deputy Commissioner, Kapurthala has been filed in Court, which is taken on record. In paras No. 4 to 8 of the said status report, it has been stated as follows:-

“4. That the revenue authority i.e. Kango vide letter dated 11.10.2021 informed the Tehsildar Sultanpur Lodhi that the Kango and Halqa Patwari visited the spot for the demarcation of the Panchyat land but antisocial people did not allow them to demarcate the panchayat land therefore they demanded police protection at the time of demarcation of the Gram Panchayat land.

5. That the respondent No.4 i.e., District Development and Panchayat Officer, Kapurthala vide letter No. 1656 dated 13.10.2021 made a written request to the Deputy Commissioner, Kapurthala for police protection at the time of demarcation.

6. That the Deputy Commissioner, Kapurthala vide letter dated 25.10.2021 provided the police protection to the

revenue authority and then the Kango and Halqa Patwari after conducting the demarcation of Khasra No. 46 submitted the demarcation report dated 30.11.2021. As per demarcation report 6 persons were found in illegal possession of the Gram Panchayat land. Copy of demarcation report dated 30.11.2021 is annexed herewith as Annexure A-1.

7. That it is further submitted that the respondent No.5 has directed the Gram Panchayat Totti that after getting the demarcation report from the revenue authority, if anybody would be found in illegal possession of the Gram Panchayat land then the eviction petition be filed against them. 8. That the respondent No.6 i.e., Gram Panchayat Totti through its administrator has filed eviction petition under Section-7 Punjab Village Common Land (Regulation) Act 1961 against the encroachers in the Court of District Development and Panchayat Officer, Kapurthala-Cum-Collector Panchayat Lands.”

A perusal of the above would show that six persons have been found in illegal possession of the Gram Panchayat land, as per demarcation report dated 30th November, 2021 (Annexure A-1). A perusal of demarcation report dated 30th November, 2021 would show the following persons as encroachers:

1. Balwinder Singh son of Kirpal Singh.
2. Amarjit Singh son of Kirpal Singh.
3. Kala Singh son of Dhara Singh.
4. Swarn Singh son of Dhara Singh.
5. Ajit Singh son of Banta Singh.
6. Charan Singh son of Banta Singh.

If there are six persons who are encroachers than how come that the Eviction Petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 has been filed by the Administrator against Malkit Singh, Gurbachan Singh and Ajit Singh only.

Learned counsel for the petitioners has pointed out that Charan Singh son of Banta Singh is/was Sarpanch of the Gram Panchayat. If that is so, the Deputy Commissioner is not only required to clarify this position, as her affidavit

would not be in consonance with the record, as in para 8 of the status report it has been stated that the petition has been filed against the encroachers, which appears to be in-correct.

Apart from that the Deputy Commissioner shall further inform that what action has been taken against the said Sarpanch who has been found in illegal possession of the Gram Panchayat land as per above referred demarcation report.

Let the said affidavit be filed within a period of three weeks from today.

List for consideration on 19th January, 2022.”

It is in pursuance to the above that affidavit dated 17.01.2022 of the Deputy Commissioner, Kapurthala, has been now filed in Court, which is taken on record along with annexures attached therewith. The discrepancies and the flaws in the affidavit as pointed out by the counsel for the petitioners have been acknowledged as correct and now in paras 2 to 7, it has been stated as follows:-

“2. That it is pertinent to mention here that as per demarcation report dated 21.09.2020 the Gram Panchayat filed eviction petitions under Section-7 of the Punjab Village Common Lands (Regulation) Act, 1961 through administrator in the Court of Collector (Shamlat Lands) – Cum- District Development and Panchayat Officer, Kapurthala on 11.10.2021 against following three persons;

- 1. Sh.Malkit Singh S/o Kashmir Singh*
- 2. Sh.Gurbachan Singh S/o Kashmir Singh*
- 3. Sh.Ajit Singh S/o Banta Singh*

*Copy of demarcation report dated 21.09.2020 and eviction petition dated 11.10.2021 is annexed herewith as **Annexure R-3/1 and R-3/2.***

3. That thereafter the revenue authority conducting the demarcation of Khasra No 46 and submitted the demarcation report dated 30.11.2021. As per demarcation report 6 persons were found in illegal possession of the Gram Panchayat land. Copy of demarcation report dated

30.11.2021 is annexed herewith as **Annexure R-3/3**.

4. That thereafter the respondent No 6 i.e., Gram Panchayat Toti through its administrator has filed eviction petition under Section-7 Punjab Village Common Lands (Regulation) Act 1961 in the Court of District Development and Panchayat Officer, Kapurthala-Cum-Collector (Panchayat Lands) against the following six persons on 14.12.2021.

1. Balwinder Singh son of Kirpal Singh.
2. Amarjit Singh son of Kirpal Singh.
3. Kala Singh son of Dhara Singh.
4. Swarn Singh son of Dhara Singh.
5. Ajit Singh son of Banta Singh.
6. Charan Singh son of Banta Singh.

Copy of eviction petition dated 14.12.2021 is annexed herewith as **Annexure R-3/4**.

5. That as per record the Gram Panchayat Toti has filed total 2 eviction petition against the 9 encroachers in the Court of District Development and Panchayat Officer, Kapurthala-Cum-Collector (Panchayat Lands).

6. That as per demarcation report dated 30.11.2021 the present Sarpanch namely Charan Singh found in illegal possession of the Gram Panchayat land. Therefore, the respondent No 4 vide letter dated 23.12.2021 written to the respondent No 2 to take action under Section-20 of the Punjab Panchayati Raj Act, 1994. Copy of letter dated 23.12.2021 is annexed herewith as **Annexure R-3/5**.

7. That in view of the aforesaid report, the Director, Rural Development and Panchayats Punjab has issued show cause notice to Sh. Charan Singh, Sarpanch gram panchayat Totti Block Sultanpur Lodhi District Kapurthala vide letter dated 13.01.2022 under Section 20 of Punjab Panchayati Raj Act 1994. A copy of this show cause notice is annexed as **Annexure R-3/6.**”

In the light of the above, when a question was put to the learned counsel for the State as to how much time would be required by the

Director, Rural Development and Panchayats Department, Punjab, to finalize the proceedings initiated against the Sarpanch, Gram Panchayat Totti, Block Sultanpur Lodhi, District Kapurthala, vide show cause notice dated 13.01.2022 under Section 20 of the Punjab Panchayati Raj Act, 1994, the State counsel has sought five weeks' time to pass a final order.

In the light of the above, we dispose of the present writ petition with a direction to respondent No.2-Director, Rural Development and Panchayats Department, Punjab, to proceed and pass an appropriate order in the light of the proceedings, which have been initiated under Section 20 of the Punjab Panchayati Raj Act, 1994, against the said Sarpanch within a period of five weeks from today.

It would be open to the petitioners to file an application for revival of the writ petition if the order passed by this Court is not complied with by respondent No.2-Director within the time stipulated above.

The Director, Rural Development and Panchayats Department, Punjab-respondent No.2, shall also consider the aspect with regard to taking action against the Sarpanch under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961.

The decision in this regard shall also be taken within the above stipulated period.

(AUGUSTINE GEORGE MASIH)
JUDGE

January 19th, 2022
Puneet

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No