

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

CWP-24551-2021

Date of Decision: December 06, 2022

GRAM PANCHAYAT SHERON

..... Petitioner

Versus

JOINT DEVELOPMENT COMMISSIONER AND ORS

.... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. J.S. Bhandohal, Advocate for the petitioner.

Mr. Sandeep Jain, Addl.AG, Punjab.

Mr. B.S. Sidhu, Senior Advocate with
Mr. Satveer Singh Badal, Advocate and
Mr. Chandan Singh, Advocate for respondents No. 2 to 7.

LISA GILL, J.

Prayer in this writ petition is for setting aside order dated 31.07.2019 (Annexure P3) passed by the Joint Development Commissioner, Punjab whereby appeal filed by respondents No. 2 to 7 has been decided by setting aside order dated 24.02.2015 passed by the District Development and Panchayat Officer, Sangrur (exercising the powers of Collector) wherein ejectment of the said respondents from Gram Panchayat land had been directed.

Petitioner – Gram Panchayat filed the petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short – ‘PVCL Act’) seeking ejectment of respondents No. 2 to 7 from Gram

Panchayat land. Said petition was allowed by DDPO, Sangrur vide order dated 24.02.2015. Specific plea had been raised by the private respondents to the effect that deficiency, as shown in the demarcation report, did not tally with the land as described in the petition filed by the Gram Panchayat. This was found to be correct by the Commissioner, who passed order dated 31.07.2019, the translation of which reads as under:-

“ While keeping in view above said discrepancies and illegal demarcation of above mentioned land in dispute, I agree with the arguments and laws produced by the appellant’s advocate and decision of subordinate Court, I hereby dismiss the order in dispute and issue directions to Gram Panchayat, Sheron to get done demarcation of land of complete ownership of Panchayat, Shamlat Land, land of all ponds (Tobe) of village afresh on receiving orders from Revenue Department as per the instructions provided by FCR and High Court. In case as per demarcation, illegal occupants are found then on the basis of new demarcation report, amended petition be got filed afresh against all illegal occupants. I direct the subordinate court to provide complete opportunity of hearing and evidence to all parties in respect of petition filed by Gram Panchayat afresh and to pass order as per law as given under :-

1. Before initiating the proceedings of eviction by respondent Gram Panchayat, the demarcation of the land in dispute which is mentioned in petition and Shamlat land of entire village, land of pond (Toba) and land in ownership of Gram Panchayat which vests with Gram Panchayat be done afresh as per provisions mentioned in Rules, Vol.1 of Hon’ble Punjab and Haryana High Court and as per instructions given by FCR under section 101 of Punjab Revenue Act and amended petition be filed against all illegal occupiers. It is not appropriate to file case against the sole appellant. In case

appellant or other persons have taken illegal possession as per the demarcation then action of eviction be taken against all at once.

2. The notice be issued to all parties while keeping in view the principal of natural law before getting done demarcation by Officials/officers of Revenue Department and demarcation be got done in presence of all parties.”

Learned counsel for the petitioner at the time of arguments submitted that direction to the Gram Panchayat to file a fresh amended petition against all illegal occupants is not justified inasmuch as there is no question of filing fresh petition(s) under Section 7 of the PVCL Act against the private respondents once the matter has been remanded to the District Development and Panchayat Officer, Sangrur for carrying out demarcation and taking necessary action thereafter. Insofar as fresh petition under Section 7 of the PVCL Act is concerned, the same can be filed only against encroachers other than the respondents in question, who may be found in illegal occupation of Gram Panchayat land after demarcation.

Written statement on behalf of respondents No. 2 to 7 filed in Court today is taken on record subject to just exceptions.

Heard learned counsel for the parties.

Learned counsel for the parties are *ad idem* that there is no question of filing of any fresh petition under Section 7 of PVCL Act for ejectment of respondents No. 2 to 7, in case they are still found to be in illegal occupation of Gram Panchayat land after carrying out fresh demarcation in terms of order dated 31.07.2019. This direction in order dated 31.07.2019 is, accordingly, set aside. Needless to say, Gram Panchayat

would take steps for incorporating any fresh facts qua the respondents therein in the already existing petition, if required, pursuant to demarcation report. In case, persons other than the private respondents are found to be in an illegal occupation of Gram Panchayat land, necessary petitions would be filed against them for their ejection.

Keeping in view the facts and circumstances as above, it is directed that demarcation in terms of order dated 31.07.2019 be carried out within a period of four weeks of receipt of certified copy of this order, after associating all concerned. The Assistant Collector would thereafter take necessary action in the pending petition under Section 7 of the PVCL Act filed by the Gram Panchayat against respondents No. 2 to 7 and the same be decided after affording due opportunity to the concerned parties in accordance with law expeditiously and preferably within the next three months. In case, any other person is found to be in illegal possession of Gram Panchayat land, necessary petition under Section 7 of the PVCL Act shall be filed by the petitioner – Gram Panchayat within one week of the demarcation report.

Writ petition is, accordingly, disposed of

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

December 06, 2022
rts

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