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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-1348-2023

Date of decision:23.01.2023

DALJIT KAUR

...Petitioner

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MR. JUSTICE KULDEEP TIWARI

Present: Mr. Hardeep Singh, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. The grievance(s) raised in the instant writ petition, is that, there are encroachments made on several tracts of land, which are owned by the *Panchayat Deh* concerned. The said encroachments are contended to be made at the instance of the encroachers concerned.
2. One of the encroachers, upon the *Panchayat Deh land*, is averred to be co-respondent No.7, who is also the Sarpanch of Gram Panchayat Village Boharpur, Block Sanour, Tehsil and District Patiala.
3. The learned State counsel, on instructions given to her, by Mr. Lakhwinder Singh, Panchayat Secretary, BDPO Sanour submits, that the above Sarpanch of the Gram Panchayat concerned, has after completion, of demarcation proceedings in respect of certain tracts of land, owned by the *Panchayat Deh* concerned, and, whereons encroachments became detected, hence instituted a petition under Section 7 of The Punjab Village Common

Lands (Regulation) Act, 1961 (hereinafter referred to as “the Act”) before the learned Collector concerned. The above statement, at the bar by the learned State counsel, becomes the base of the grievance reared, by the petitioner herein, inasmuch as, he submits that one of the encroachers, upon the land owned by the *Panchayat Deh* concerned, is also one Komal Manjeet Singh, Sarpanch of the Panchayat concerned. Therefore, the said petition under Section 7 of the Act, was mis-constituted, as given his being one of the encroachers, upon the *Panchayat Deh* land concerned, thereupon he was incapacitated to maintain the petition, on behalf of the Panchayat Deh concerned. The above argument is rested on the principle, that since co-respondent No.7, the petitioner, in the petition under Section 7 of the Act, has a conflict of interest in respect of the grievance reared against the encroachers concerned, in the petition (supra), therefore, he could not be validly authorized to institute a valid petition under Section 7 of the Act, before the learned Collector concerned.

4. The above made argument, does not appeal, to the judicial conscience, of this Court, given the learned State counsel apprising this Court, that, qua the tracts of land, owned by the *Panchayat Deh* concerned,, in respect whereof, a petition under Section 7 of the Act has been instituted against the encroachers concerned, rather the co-respondent No.7 (supra) is not one of the encroachers. Therefore, the petition instituted under Section 7 of the Act, in respect of those tracts of land owned by the *Panchayat Deh* concerned, whereons no encroachment is made, at the instance of co-respondent No.7 Komal Manjeet Singh, thus renders the petition (supra), instituted by the said Sarpanch to be well constituted, as, in petition (supra), it cannot be said that he had any conflict of interest with the thereins land of the *Panchayat Deh* concerned.

5. Moreover, since it is further submitted before this Court, that certain demarcations in respect of other tracts of land, as, owned by the *Panchayat Deh* concerned, are yet to be conducted, therefore, if after completion of demarcations in respect of other tracts of land, owned by the *Panchayat Deh* concerned, it becomes unearthed, that the above Sarpanch Komal Manjeet Singh, is also an encroacher thereons, thereupon, the Panchayat concerned, shall make a resolution, whereby it shall not authorize the above Sarpanch, to institute a petition under Section 7 of the Act, but shall authorize some other Panch to institute petition supra.

6. The said demarcation be ensured to be completed within three weeks from today, and, most promptly thereafter a petition under Section 7 of the Act shall be instituted against all the encroachers, upon the *Panchayat Deh* land concerned, before the Competent Statutory Officer.

7. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

23.01.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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