

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

CWP-6424-2022(O&M)

Date of Decision : February 06, 2023

Gurmeet

.....Petitioner

VERSUS

State of Haryana and others

.....Respondents

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

Present: Mr. Narender Pal Bhardwaj, Advocate
for the petitioner.

Mr. P.P.Chahar, DAG, Haryana.

Mr. Sukhdeep Singh, Advocate
for Mr. Parminder Singh, Advocate
for respondent no.5.

None for respondents no.6 and 7.

Mr. Munish Mittal, Advocate
for the applicant (in CM-18072-CWP-2021 &
CM-19286-CWP-2021).

SURESHWAR THAKUR, J.(ORAL)

1. Becoming aggrieved from Annexure P-6, which is a
communication addressed by the Block Development and Panchayat Officer,

Indri to Secretary, Gram Panchayat Kalri Khalsa besides to Dhanora Jagir

and Budheri, has led the petitioners to access this Court. Through the instant petition, they pray for the quashing of Annexure P-6.

2. A reading of Annexure P-6 reveals, that the above Annexure, has been drawn in pursuance to various complaints addressed by the aggrieved concerned to the Chief Minister, therefore, it is mentioned therein, that the addressees of Annexure P-6, have been directed to draw notices against the encroachers concerned, upon, the Gram Panchayat land concerned.

3. Both the above letter, and, the issuance(s) in consequence(s) thereof of notices, upon, the encroachers concerned, but cause palpable violation to the statutory provisions engrafted in the relevant statute, which are otherwise required to be resorted, and, only upon the successful completion of the lawfully drawn statutory proceedings, of eviction against the encroachers concerned, upon, the Gram Panchayat land concerned, that such affirmatively drawn orders of eviction, can become lawfully enforced against the encroachers concerned. Obviously, the above, has not happened, except the summary manner (Supra) being adopted against the encroachers concerned qua the latter being evicted from the petition land.

4. Therefore, when it is also stated at the bar by the counsel appearing for the litigants concerned, that no petition under Section 7 of the

Punjab Village Common Lands (Regulation), Act 1961 (hereinafter referred to be as 'the Act') is yet drawn against the encroachers concerned, by the Gram Panchayat. Therefore, without the said petition becoming instituted, at the instance of the aggrieved concerned, before the Collector concerned, hence, at this stage, it is not deemed appropriate to ensure, that any further action, be drawn in pursuance even to Annexure P-6, as also in pursuance to the notices, if any, as become issued in consequence thereof. In sequel, this Court proceeds to invalidate the above Annexure P-6 which even otherwise does completely usurp the lawful jurisdiction of the learned Collector concerned, who otherwise becomes lawfully vested with an able jurisdiction to, after hearing all the concerned, in a petition cast under Section 7 of the Act, hence pass lawful order(s) of eviction against the encroachers, upon, the Panchayat lands concerned. Necessarily, hence, the prayer made in the petition for, the quashing of the impugned order Annexure P-6 (notice bearing No.6190-92 dated 24.02.2020) but is a validly made motion, and the said Annexure is hereby quashed, and, the petition is allowed.

5. At this stage, liberty is reserved to the Block Development and Panchayat Officer concerned, to forthwith constitute a petition, under Section 7 of the Act against the encroachers concerned, therefrom the

Collector concerned shall after affording an opportunity of hearing, and,
after hearing all concerned shall make a prompt lawful decision thereons.

6. All the pending applications stand disposed of.

(SURESHWAR THAKUR)
JUDGE

February 06, 2023
mamta

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No