

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

284

CWP-10424-2022
Date of Decision: 18.01.2023

SUNIL KUMAR

... Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Ishnoor Singh, Advocate for
Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Vivek Chauhan, AAG, Haryana.

VINOD S. BHARDWAJ, J. (ORAL)

The present petition has been filed under Articles 226/227 of the Constitution of India, 1950 for issuance of a writ in the nature of Mandamus for directing respondents No.2 and 3 to take appropriate action and decide the representations dated 27.08.2021 (Annexure P-11) and 09.09.2021 (Annexure P-12) as well as notice dated 07.07.2021 (Annexure P-10), whereby it was directed that the work of removal of encroachment on the road infrastructure was to be completed within a period of seven days, however, despite the same, no action has been taken till date.

Learned counsel for the petitioner contends that the petitioner is a resident of village Lehandola, District Faridabad and that a *gair mumkin Rasta* No.31 falls in Khasra No.31, which is used for ingress and egress to village Lehandola, as per the Jamabandi for the year 2018-19 bearing Hadbast No.104. The said Rasta is shown as measuring 09K-08M. On 07.01.2021, an application was moved before respondent No.3, who is the Sub-Divisional

Engineer, PWD (B&R), Faridabad for carrying out measurement of Rasta No.31 so that the dimensions of the same could be measured after demarcation and encroachment on the same could be removed. The spot inspection was eventually carried out on 09.02.2021 in the presence of the Patwari alongwith the concerned parties and surveyors(s). It was thereafter concluded that there were encroachments and the names of the encroachers were disclosed to the surveyors by the persons who were present at the spot. The map of the demarcation has also been appended alongwith present petition. An application was thereafter moved for removal of the said encroachments. A detailed report dated 25.03.2021 was prepared by the Halqa Girdawar, Mohana, giving details about the names of encroachers and the area encroached by them. As per the said report, a total of 13 persons were found to have encroached upon the alleged Rasta. Accordingly, Notice(s) under Rule 3 of the Haryana Road Infrastructure Protection Rules, 2017 were issued by the respondents to the encroachers directing them to remove the encroachment, failing which the Authority shall remove the same at the cost and risk of the violators. As no action was taken thereupon, a notice was sent by the petitioner and the present writ petition was filed thereafter.

A short reply on behalf of respondents No.1 to 4 has been filed by way of an affidavit wherein the facts, as noticed above, have not been disputed. It has been averred that after verification of the record, it was noticed that the road over which the encroachment has been shown in the demarcation report is partially the part of Ballabhgarh-Tigaon-Majhawali Road and does not belong to PWD Department and the Gram Panchayat concerned is the recorded owner thereof. The PWD road, which passes parallel to that section, is situated in different killa number and that the removal of encroachment thereon does not

fall within the jurisdiction of the Department of PWD (B&R). The Block Development and Panchayat Officer, Tigaon has been asked vide Sub-Division PWD (B&R) Faridabad Letter bearing Memo No.826 dated 08.08.2022 to remove the encroachments from part of Khasra No.31.

It was also pointed out that seven villagers have filed Civil Suit for Permanent Injunction before the Civil Judge (Junior Division), Faridabad in respect of the demolitions proposed to be undertaken in Khasra No.31 as per the demarcation report and an interim stay has already been granted therein vide order dated 19.07.2022 passed by the said Court.

In view of the aforesaid reply filed by the respondents on behalf of the Department of PWD (B&R), learned counsel for the petitioner does not intend to press the present petition at this stage so as to enable the petitioner to pursue his remedies available to him as per law.

Disposed of as not pressed with the liberty as aforesaid.

18.01.2023.
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No