

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

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**CWP-12950-2021**

**Date of Decision: 06.02.2023**

DILBAR SINGH

-Petitioner

Versus

STATE OF PUNJAB AND OTHERS

-Respondents

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

Argued by: Mr. Malkeet Singh, Advocate  
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. V.K.Sandhir, Advocate  
for the respondent No.4.

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**KULDEEP TIWARI, J.**

1. Through the present writ petition, challenge has been thrown to the order dated 20.07.2017, Annexure P-3, passed by the respondent No.3, vide which the petition filed by the respondent No.4, under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as the 'Act' for short), has been allowed, and, also to the order dated 19.02.2021, Annexure P-7, vide which the appeal preferred by the petitioner was dismissed by respondent No.2.
2. The respondent No.4 had filed a petition, under Section 7 of the Act, before the respondent No.3 alleging therein that the petitioner

has constructed house over land bearing Khata No.822/829 min, Khasra No.315(2-0), which vests with the Gram Panchayat, and, earlier a petition was filed by the respondent- Gram Panchayat against one Buta Singh, who had illegally encroached upon this land and the said petition was allowed vide order dated 23.01.2004, passed by the D.D.P.O.-cum-Collector, Hoshiarpur, and, Buta Singh was ordered to be evicted from the land comprised in Khasra No.315. Thereafter, said Buta Singh sold this land to one Manjeet Kaur, which she subsequently sold to the petitioner herein, therefore, the possession of the petitioner is illegal. The petitioner, after putting appearance before the learned Collector, stated that he has not raised his house over Khasra No.315, rather, Buta Singh had sold his land comprised in Rect. No.54//1/2 to one Manjeet Kaur, and thereafter, she sold this land, in the shape of a plot, measuring 1 Kanal 16 Marla, to the petitioner. The petitioner also appended the photographs to establish that he has not made any encroachment upon the land comprised in Khasra No.315(2-0), which vested with the Gram Panchayat, rather, he has constructed house upon the land, purchased by him. After completion of pleadings, the respondent No.3 allowed the petition, filed by the respondent No.4- Gram Panchayat, and, ordered the eviction of the petitioner by holding him to be an illegal encroacher upon the Panchayat land, comprised in Khasra No.315(2-0).

3. Feeling aggrieved by the order (supra), the petitioner filed an appeal, under Section 7(2) of the Act, before the respondent No.2, however, the said appeal was also dismissed, vide order dated 19.02.2021

(Annexure P-7).

4. At the very outset, the learned counsel for the petitioner has placed reliance upon the demarcation report, Annexure P-2, which was carried out on the directions of Tehsildar, S.B.S. Nagar. As per this demarcation report, no encroachment was found over Khasra No.315(2-0). He submitted that the report (supra) was also placed before the respondent No.3, however, without taking it into consideration, and, merely on the basis of conjectures and surmises, he passed the impugned order (Annexure P-3). He further submitted that, after passing of this order, another demarcation report was called for, as some matters were subjudice before this Court, and, in pursuance thereof, another demarcation was conducted by Tehsildar, S.B.S. Nagar, on the directions of Block Development and Panchayat Officer, S.B.S. Nagar. In the second demarcation report, placed on record as Annexure P-4, the petitioner is declared to not make any encroachment over Khasra No.315 (2-0). In fact, this demarcation report was available even with the learned appellate authority, however, it was not taken the same into consideration, rather it dismissed the appeal in a most perfunctory manner.

5. We have perused the orders, as passed by both the authorities below. None of the authorities has taken into consideration the demarcation report, available on record, which reveals that there is no encroachment upon the Panchayat land, bearing Khasra No.315(2-0). Moreover, there is no finding as to whether the petitioner has constructed

his house over the land comprised in Rect. No.54//1/2, which he purchased from Manjeet Kaur, or, over the Panchayat land comprised in Khasra No.315(2-0). In the absence of any such finding, the impugned orders are not sustainable in the eyes of law, and therefore, deserve to be set aside.

6. In view of the facts and circumstances stated above, we find merit in the present writ petition, therefore, the same is allowed. The orders dated 20.07.2017, and, 19.02.2021, passed by respondent Nos.3, and, 2 respectively, are hereby set aside, and, the case is remanded to the respondent No.3 after restoring the case to its original number, to proceed further in accordance with law, but, only after ordering for a fresh valid demarcation of the disputed land, and thereafter, to ensure that the author of such demarcation report steps into the witness box, to prove the contents as carried therein, and, after giving opportunity of hearing to all concerned, decide the lis, by passing a speaking order. The aforesaid decision be taken positively within six months, after receipt of the order of this Court.

**(SURESHWAR THAKUR)**  
**JUDGE**

**(KULDEEP TIWARI)**  
**JUDGE**

06.02.2023  
devinder

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