

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

2023:PHHC:078750-DB

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CWP-10883-2023

Date of Decision : **May 30, 2023**

GURPASH SINGH BRAR

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present : Mr. Amaninder Preet, Advocate
for the petitioner.

Mr. Anurag Bansal, AAG, Punjab.

SURESHWAR THAKUR. J.(Oral)

1. The petitioner alleges that certain private persons have made encroachments upon the gair mumkin rasta. Resultantly, a mandamus, is asked, to be made upon the official respondents, to make the said gair mumkin passage, thus free from such encroachments.

2. However, the above made mandamus cannot, at this stage be made by this Court, as statutory remedies are yet available to be recoured, at the instance of the Sarpanch of the Gram Panchayat concerned, or at the instance of the BDPO concerned, in as much as theirs, proceeding to institute a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the Act of 1961'), before the Collector concerned. Therefore, in the wake of the above statutory remedies being available to be become recoured, at the instance of the above, thus this Court at this stage does not deem it fit

and appropriate to make the above asked mandamus, upon the official respondents.

3. Consequently, the writ petition, at this stage, is disposed of, as being not maintainable, but with a direction upon the BDPO concerned, and/or upon the Sarpanch of the Gram Panchayat concerned, to after getting demarcation of the disputed land(s) done, by a competent Revenue Officer concerned, to subsequently institute a petition under Section 7 of the Act of 1961, before the Collector concerned. On the said petition be instituted before the Collector concerned, and, the same shall be decided most expeditiously but after hearing all the parties concerned.

4. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

May 30, 2023
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No