

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-14900-2022

Date of decision: 16.11.2023

AVTAR SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

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

Present: - None for the petitioner.

Ms. Anju Sharma Kaushik, DAG, Punjab.

Mr. Abdul Aziz, Advocate
for respondent No.6.

VINOD S. BHARDWAJ, J. (Oral)

1. The present petition has been filed espousing a grievance as regards the illegal encroachment on a public street by constructing an escalation slope in front of the house of the petitioner, in violation of the laws.

2. It was averred that as a result of the illegal encroachments done on the public street, the petitioner was facing grave difficulty in reaching his house and that such difficulty was also being faced by other residents of the village in case they carry agricultural transportation vehicles through the public street. The above said encroachment was reflected and established by

way of the photographs that had been appended alongwith the present petition.

3. Pursuant to the notice of motion issued by this Court, a written statement has been filed on behalf of respondents by way of an affidavit of Jagraj Singh, Block Development & Panchayat Officer, Block Sherpur, District Sangrur. In the preliminary submissions thereof, it has been averred as under:

*“That the answering-respondent/BDPO Sherpur had summoned the parties i.e. petitioner, respondent No.6 and Gram Panchayat at his office on 08.10.2021, in view of the complaint made by petitioner. All the parties were heard in detail and the true picture revealed that the petitioner is raising frivolous objections motivated by village factionalism, the houses of petitioner and respondent No.6 are near each other, they do not have good relations. The elevation in front of house of the petitioner is exactly similar to the elevation in front of the house of the respondent No.6. There are more than 10 other houses in the street, no other person has any objection against the petitioner, who has given his statement supported by 3 Lambardar of village and member Block Samiti along with 21 residents. Moreover, Sarpanch, Gram Panchayat has given in writing that the Gram Panchayat has corrected the elevation and nobody has any objection regarding this anymore. The petitioner is raising objection with malafide inspite of the above mentioned facts without impleading the Gram Panchayat in the present case. The photographs showing ramps constructed by petitioner and respondent No.6 and copy of undertaking dated 08.10.2021 given by Sarpanch Gram Panchayat Ghanaur Kalan are attached herewith as **Annexure R-1** and **Annexure R-2**.*

4. Counsel for the respondent-State as well as the private respondent contend that the matter having been amicably resolved amongst

the parties, the present petition may accordingly be dismissed more so as the petitioner is not appearing before this Court successively for last 03 occasions.

5. Taking into consideration, the repeated non-appearance of the petitioner, the present petition is dismissed for non-prosecution. However, taking into consideration that the cause espoused by the petitioner pertained to illegal encroachment on the public street which caused impediment to free movement of the residents of the village alongwith their agricultural vehicles (Tractor and Trolleys Etc.), it is deemed expedient to seek a compliance report by the respondent Block Development Panchayat Officer more so when the response filed by the Block Development Panchayat Officer does not aver that the encroachments in the street have been removed and merely raises an emphasis that the matter has been resolved by the Panchayat and that similar encroachment had also been done by the petitioner himself alongwith more than 10 other persons.

6. Such consensual encroachment on Public Street cannot be the basis for disposing of petitions. Merely because the petitioner is a violator does not give the ultimate control of a lis. This Court expresses its anguish about the manner in which the Block Development and Panchayat Officer, Sherpur has acted. Instead of insuring that the illegal encroachments on the public street are removed, the Block Development and Panchayat Officer chose an appeasing path of allowing mutual encroachment on the public street by the residents of the village. Such conduct of the Block Development & Panchayat Officer is deprecated. The District Development & Panchayat Officer is directed to look into the conduct of the concerned

Block Development and Panchayat Officer in failing to ensure rule of law and protection of the public streets.

7. It is further directed that a demarcation of the street in village Ghanaur Kalan, Block Sherpur, Tehsil Dhuri, District Sangrur is carried out by the Revenue Authorities in the presence of Block Development and Panchayat Officer as well as residents of the Gram Panchayat. **The aforesaid measurement/demarcation shall be conducted by the officials in the presence of Mr. Sahil Shehrawat, Advocate, Enrollment No. PH-5531/2023, Mobile No. 9996739000, who is appointed as the Local Commission to oversee the work of demarcation.** A copy of the aforesaid demarcation report alongwith the status regarding removal of the encroachments, if any found on the public street shall be filed by the Block Development and Panchayat Officer within a period of 10 weeks from today. **Fee of the Local Commission is determined at Rs. 50,000/- to be paid by the respondent-Department of Development and Panchayat.**

To be listed for compliance.

(VINOD S. BHARDWAJ)
JUDGE

NOVEMBER 16, 2023

Vishal Sharma

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