

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

**CWP-13829-2022 (O & M)
Date of Decision : 04.12.2023**

BALWAN SINGH

.....Petitioner

Versus

STATE OF HARYANA AND OTHERS

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

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

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

Mr. Priyavrat Parashar, Advocate
for respondent No. 5.

Mr. Narender Pal Bhardwaj, Advocate
for respondents No. 6 to 8.

SURESHWAR THAKUR, J. (Oral)
CM-13051-CWP-2023

1. The application is allowed subject to all just exceptions and the reply filed on behalf of respondents No. 6 to 8, is taken on record.

Main case.

2. The learned counsel appearing for the litigants, do not dispute the fact, that the demarcation report, if any, which became prepared, thus to unveil whether the present petitioner, who owns lands contiguous to the lands of the Gram Panchayat concerned, thus reveals that he had made encroachment(s), thereons. The revenue officer concerned, has reported that the petitioner had made encroachment(s) upon open spaces within the *abadi land*, which however vest in the Gram Panchayat.

3. The learned counsels appearing for the contesting litigants, are yet also ad idem that the demarcation report, did not either become tendered into evidence by its author nor the author of the said demarcation report became cross examined by the aggrieved therefrom.

4. The counsels are further ad idem, that unless the demarcation report was proven by its author, thus through his stepping into the witness box and thereafter his becoming cross examined by the aggrieved, thereby alone the authorities below could conclude, that encroachment(s) as revealed therein, were made on the Gram Panchayats' lands thus adjoining the *abadi*/land of the present petitioner.
5. Contrarily, when the above has not happened.
6. In consequence, the impugned order(s) but for the above imperative fact remaining unproven, through the demarcating officer stepping into the witness box, thus is required to be quashed and set aside.
7. Moreover, the *lis* is remanded to the Assistant Collector concerned, to after restoring the *lis* to its original number, thus to make a speaking decision thereons, but within three weeks from today, besides after hearing all affected persons concerned.
8. The said decision making shall be preceded by the Assistant Collector concerned, summoning the author of the demarcation report, to step into the witness box and adduce proof in respect of its being validly drawn by him, besides shall ensure that the aggrieved therefrom, are permitted to cross examine, the author of the demarcation report.
9. Disposed of alongwith all pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

04.12.2023

kavneet singh