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

CWP-26931-2015 (O&M)

Date of decision : 14.12.2023

Lakhwinder Singh

.....Petitioner

versus

The Secretary to Government of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. P.S. Chahal, Advocate
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

Mr. Malkeet Singh, Advocate
for respondent No.6.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for directing respondents No.3 to 5 to remove unauthorized construction raised by respondent No.6 over the government land/gair mumkin rasta (path) comprising of Khasra No.53//7(0-7) situated in Bholath Sharaki as mentioned in the legal notice dated 28.09.2015 (Annexure P-9) or any other appropriate order or direction as may deem fit and proper in the circumstances of the case favourable to the petitioner.

It has been submitted by counsel for the petitioner that petitioner filed an application dated 04.06.2013 praying for removing the encroachment made by respondent No.6 over the gair mumkin passage in Khasra No.53//7(0-7). He has submitted that Patwari Halqa made a report on the asking of Tehsildar which was duly signed by the Tehsildar. It is

submitted that the Sub Divisional Magistrate, Bholath issued notice to respondent No.6 on 28.01.2014 for vacating the encroached area. It is submitted that petitioner made representation by registered post to respondents No.1 to 5 for removal of encroachment made by respondent No.6 on 24.03.2014. He submits that petitioner filed CWP No.13716 of 2014 which was disposed of by this Court with direction to Sub Divisional Magistrate, respondent No.4 to take action in accordance with law. It is submitted that from the report of Kanungo dated 29.04.2015, encroachment made by respondent No.6 was duly proved. He has submitted that petitioner issued the legal notice dated 28.09.2015 to respondents No.1 to 5 but no action has been taken by the respondents on the same.

Heard. This Court issued notice to the respondents and the reply has been filed by the respondents-State. She has been submitted that the petitioner has not disclosed the true facts of the present case. She submits that the enquiry in this regard was conducted by the Sub Divisional Magistrate on 07.02.2014 and then on 16.02.2016 and the same have been placed on record as Annexures R-1/T and R-2/T. She has submitted that the official respondents had carried out demarcation and had recorded statement of the concerned residents. She submits that the said authorities had already carried out demarcation and it was found that Khasra No.53//7(7-0) is vacant at the spot and there was no possession over it. She further submits that the same is further affirmed from the letter dated 16.02.2016 by the office of Sub Divisional Magistrate, Bholath. She submits that the demarcation has already been carried out however, if again there is any encroachment that has to be removed by the

Nagar Panchayat i.e. respondent No.5.

Learned counsel for the petitioner has submitted that though the encroachment has been removed but subsequently, there can be encroachment again. On hearing counsel for the parties, it is submitted that enquiry has been carried out by the respondent-State and demarcation has been conducted on 14.07.2014. Khasra No.53//7(7-0) was also found to be vacant. Thus, this Court finds that the grievances raised by the petitioner is already redressed however, respondent No.5 is at liberty to take necessary action in case there is any further encroachment on the basis of demarcation already conducted by the State on 14.07.2014.

Disposed of in the above-mentioned terms.

(**RAJESH BHARDWAJ**)
JUDGE

14.12.2023
m. sharma

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