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

CWP-19140-2022

Date of decision:31.01.2023

SATBIR

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present: Ms. Meena Bansal, Advocate
for the petitioner.

Mr. Raman Sharma, Addl. A.G. Haryana

Mr. Jitender Dhanda, Advopcate
for respondent No.6.

SURESHWAR THAKUR, J. (ORAL)

1. The writ petitioner is alleged to have made encroachments, upon *Gair Mumkin Gali/Rasta*. The above alleged encroachment as made on the *Gair Mumkin Gali/Rasta*, could not *prima-facie* be made, at the instance of the petitioner, as the said *Gair Mumkin Gali/Rasta*, was meant for the common use, of the entire village proprietary body concerned. Therefore, one Satbir son of Shri Badlu was led to institute a petition under Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961, for the removal of the encroachment, as made, at the instance of the respondents therein, on the *Gair Mumkin Gali/Rasta*, carried in Khasra No.725 Khewat/Khata No.1499/1921 Raqba Chhatar.

2. The learned Collector through a decision made thereons on 20.09.2017, proceeded to accept the above petition, and, also ordered for the removal of the encroachment, if any, as made, at the instance of the respondents concerned, on the *Gair Mumkin Gali/Rasta*.

3. The aggrieved therefrom respondent, made an appeal thereagainst before the Court of the District Collector, Jind. The latter through an order drawn on case No.23/EDC/7VCL/2018, on 19.07.2021, declined to interfere with the order, as became rendered initially by the learned Assistant Collector, Sub Division Uchana. Subsequently, the aggrieved therefrom preferred thereagainst a revision petition before the learned Revisional Court concerned. The said revision petition bearing No.15080/VCL, became decided on 11.07.2022. On the said revision petition the learned Revisional Court after ordering for dismissal thereof, proceeded to concur with the prior thereto made orders, by the Authorities concerned.

4. The above order, as made on the above motions by the Authorities below has been challenged by the petitioner, through his instituting the instant writ petition before this Court.

5. The learned counsel appearing for the petitioner has contended, that the demarcation report, as became relied upon by the Authorities below was completely infirm, as the said demarcation report was neither tendered into evidence nor became proven in accordance with law, but obviously argues that the reliance as placed thereons was a mis-placed reliance.

6. However, the above made argument, does not appeal to the judicial conscience of this Court, as in para 4 of the order drawn by the learned Revisional Court, speakings occur, that the petitioner had *suo-motu* carried demarcation of the suit land, on 05.03.2022, wherein, also it was found that an

illegal encroachment is made, at his instance on Khasra No.725. The above demarcation, as became conducted, at the instance of the petitioner, and, which ultimately resulted in detections being made, *qua* encroachments, being made, upon the *Gair Mumkin Gali/Rasta*, does lead to a conclusion, that the petitioner becomes estopped from contending before this Court, that the demarcation report as became relied upon, by the petitioner concerned, was infirm, inasmuch as, the demarcation report as became prepared, in consequence thereto, did not become proven in accordance with law.

7. What adds strength to the above made conclusion, is derived from the factum, that the petitioner herein had sworn an affidavit, that in pursuance to the demarcation, as became conducted on 20.02.2015, he would proceed to remove the encroachment, as made, at his instance, on the *Gair Mumkin Gali/Rasta*. Therefore, but obviously the above sworn affidavit, also does lead to a consequent inference that, at this stage, the learned counsel for the petitioner, is estopped from making any argument before this Court, that the demarcation of the suit property, as became conducted, on 20.02.2015, is completely infirm, given the demarcation report, as became prepared in consequence thereto, was neither proven in accordance with law nor was amenable for any reliance being placed thereons.

8. Therefore, this Court does not find any infirmity in the orders challenged before this Court. The orders challenged before this Court are affirmed, and, upheld.

9. However, in the larger interest of justice, the learned Executing Court concerned, shall after hearing all the parties concerned, and, also after asking for a fresh lawful demarcation *qua* the suit property being conducted, shall proceed to record reasons, that the concurrently made eviction orders against the petitioner, are put to the utmost efficacious, and, fullest execution.

The above exercise be ensured to be completed within three months from today,
by the Court of the first instance or by the learned Executing Court concerned.

(SURESHWAR THAKUR)
JUDGE

31.01.2023
Ithlesh

(KULDEEP TIWARI)
JUDGE

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