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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-17511-2023

Date of decision:11.08.2023

NARESH KUMAR AND ANR

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARIPresent: Mr. D.V. Dhindsa, Advocate
for the petitioners.

Mr. Pradeep Parkash Chahar, Sr. DAG, Haryana

SURESHWAR THAKUR, J. (ORAL)

1. Learned counsel for the petitioners submits, that without recouring the remedies available under law to seek the eviction of the petitioners, from the purported open spaces within the *abadi deh*, whereons, allegedly some construction has been made, at the instance of the present petitioners, rather the Sarpanch of the Gram Panchayat concerned, has issued a notice (Annexure P-3) upon the present petitioners.

2. For the reasons to be assigned hereinafter the impugned notice (Annexure P-3) is drawn in an arbitrary manner, inasmuch as, though as ordained by law for ensuring, that as a matter of fact if some encroachments occur over open spaces within the *abadi deh*, thereby it became incumbent upon the Sarpanch of the Gram Panchayat concerned, to ensure their removals therefrom, only when prior thereto a valid demarcation of the relevant site, thus was conducted by an empowered revenue officer.

2. Subsequently, the Sarpanch of the Gram Panchayat concerned, may have then taken to issue Annexure P-3. However, it appears that without adopting the necessarily ordained demarcation of the relevant site, being conducted by an empowered revenue officer concerned, yet Annexure P-3, has been served upon the petitioners.

3. Resultantly, the petition is allowed, and, Annexure P-3 is quashed, and, set aside, the same being arbitrarily issues.

4. Be that as it may, liberty is reserved to the Gram Panchayat concerned, to after ensuring the holding a valid demarcation of the relevant site, by a empowered revenue officer concerned, and in case such a demarcation, discloses that an encroachment is being made by the petitioners, on any open space within the *abadi deh*, thereupon to forthwith institute a petition under Section 7 of The Haryana Village Common Lands (Regulation) Act, 1961 before the Assistant Collector concerned, who on receiving the same, shall make a lawful speaking decision thereons, but after hearing all affected persons concerned, yet positively within a period of 3 months from its preferment.

(SURESHWAR THAKUR)
JUDGE

11.08.2023

Ithlesh

(KULDEEP TIWARI)
JUDGE

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