

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

CWP-8792-2016 (O & M)

Reserved on: 02.05.2023

Pronounced on: 12.05.2023

Nagender Singh (since deceased) through his LRs.Petitioners

Versus

State of Haryana & OthersRespondents

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

Argued by: Mr. Swarn Singh Tiwana, Advocate
for the petitioners.

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

Mr. Amit Jain, Advocate
for respondent No. 6.

SURESHWAR THAKUR, J.

Factual Background.

1. The Gram Panchayat Bhondsi, Tehsil Sohna, District Gurgaon, through Deepak Raghav, Member Panchayat, Bhondsi, instituted on 18.02.2013, a petition under under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, hereinafter for short called as 'the PVCL Act' against a purported encroacher, upon, the panchayat land, one Nagendar Singh. The said petition became assigned file No. 49/SDO/G-II/VCL. Through a decision made thereons, on 23.07.2013 (Annexure P-1), the learned Assistant Collector concerned, after bearing in mind the demarcation report, as became conducted over the petition lands, by the Local Commissioner

concerned, thus decreed the said petition for eviction.

2. The above decision (Annexure P-1), resulted in the aggrieved therefrom instituting thereagainst an appeal before the competent Appellate Authority concerned. However, the competent Appellate Authority concerned, through a decision made on 10.02.2015, upon, appeal No.14/Collector/R.I (Annexure P-2), declined the espoused relief to the appellant. Thus, affirmed the verdict (Annexure P-1), as became previously drawn by the learned Assistant Collector concerned.

3. Consequently, the aggrieved Nagender Singh, the petitioner herein, preferred thereagainst a revision petition before the Revisional Authority concerned. However, through a decision made on 25.05.2015 (Annexure P-3), upon the revision petition concerned, the Revisional Authority concerned, also declined the espoused relief to the revisionist therein.

4. The above concurrently made decisions (Annexures P-1 to P-3), has caused pain to the petitioner and has led him to institute thereagainst, the instant petition before this Court.

Inference of this Court.

5. The petitioner is alleged to raise a house on the disputed khasra numbers. The disputed khasra numbers are evidently owned by the Gram Panchayat concerned. The principal premise whereons became rested the decree of eviction, is the demarcation report, as made of the petition lands by the Local Commissioner concerned. A reading of the orders, as became concurrently drawn by all the statutory authorities below, reveals that thereins becoming recorded, a conclusion, that the said demarcation report was drawn in terms of the

relevant rules and instructions. Though the petitioner was to be assigned a right to make a protest against the tenability of the said demarcation report, but it is revealed from a reading of the orders, as drawn by the Assistant Collector 1st Grade, Gurgaon (Annexure P-1), that despite several opportunities becoming granted to the petitioner herein, to produce evidence contrary to the one as comprised against him, in the demarcation report, he failed to adduce such evidence, thus for repelling the worth of the demarcation report, besides also it appears that, he omitted to ask for the summoning of the author of the demarcation report, so as to ensure that he makes, during his making cross examination upon him, those apposite elicitations from him, but suggestive that the said demarcation report is not drawn in consonance with the relevant rules and instructions. Cumulatively, when he omits to do so, therefore, there are gross abandonments and waivers by the petitioner herein, to adduce evidence, thus, dislodging the worth of the demarcation report, either through his making a protest against its tenability or through his subsequently asking for the summoning of the demarcating officer, so that elicitations are made from him, but suggestive that he has not drawn the same in consonance with the relevant rules and instructions.

6. The effect of the above waivers and abandonments, is that, the petitioner is deemed to have acquiesced to the validity of the drawing of the demarcation report, which became relied upon by the statutory authorities below. Resultantly, at this stage, the petitioner cannot make any submission, that the concurrently made decrees of eviction against him, are flawed rather on the premise that the relevant

demarcation report, upon, which the relief became founded, has not

been drawn in consonance with the relevant rules and instructions.

7. In consequence, this Court is of the considered view, that the impugned orders, do not suffer from any gross perversity, or absurdity of any mis-appraisal of the relevant evidence nor hence this Court becomes constrained to interfere with the impugned annexures.

Final Order

8. In aftermath, this Court finds no merit in the writ petition, and, with the above observations, the same is dismissed. The impugned orders are maintained and affirmed.

9. No order as to costs.

10. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

12.05.2023

kavneet singh

(KULDEEP TIWARI)
JUDGE

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