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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision : May 03, 2023

JAI SINGH AND ANR.

-Petitioners

V/S

THE DIVISIONAL COMMISSIONER & ORS

-Respondents

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

Present : Ms. Vaishali Kamboj, Advocate
for the petitioners.

Mr. Parveen Mehta, DAG, Haryana

SURESHWAR THAKUR, J.(ORAL)

1. The writ petitioners, through the instant writ petition, challenged the making of Annexure P-6, whereby the Divisional Commissioner, Ambala, after quashing and setting aside the orders, as became previously passed by the authorities below, thus had ordered for a fresh demarcation of the petition land(s) being conducted.

2. When the instant petition came up before this Court, on 13.09.2022, this Court had directed, that a fresh demarcation of the petition land(s) be made. The above order has been complied with, inasmuch as, it has resulted in the drawing of Annexure R-1, wherein, occurs speakings, that there are encroachment(s) made over the petition land(s), at the instance of the encroacher(s) concerned.

3. However, the said demarcation report cannot straightaway, in the instant petition, rather becomes accept, nor on its basis, the verdict(s) of eviction, as made prior to the drawing of Annexure P-6, can become sustained. The reason becomes rooted in the fact, that unless the aggrieved from Annexure R-1 are

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permitted to contest Annexure R-1, but only through the author of Annexure R-1 stepping into the witness box, and, his then being subjected to cross-examinations, that thereafter, in case yet the author of Annexure R-1, is able to sustain the speakings made therein against the aggrieved, that a possible conclusion can be raised, that encroachment(s) as a matter of fact, have been made on the petition land(s) at the instance of the encroacher(s) concerned.

4. Necessarily, the above exercise qua proof, in the above manner being made of Annexure R-1, cannot be embarked upon, by this Court, therefore at this stage, Annexure R-1 is not accepted. The order, as made in Annexure P-6, is thereby validated. The lis is remanded to the Id. Collector concerned, to restore the lis to its original number. The remandee court concerned, may not in view of Annexure R-1 becoming drawn, in pursuance to orders made by this Court, thus elicit the making of a fresh demarcation report from the empowered revenue officer concerned, but may ensure through the summoning of the author of Annexure R-1, that he purveys substantiation to the demarcation report, besides, may ensure that it becomes lawfully exhibited. Apart therefrom, after stepping into the witness box of the author of Annexure R-1, the aggrieved therefrom, shall be permitted to subject him to cross-examination. Subsequently, a fresh decision, in accordance with law, be recorded by the remandee court, but after hearing all concerned, and, positively within four months hereafter.

5. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

May 03, 2023
devinder

Whether speaking/reasoned.	:	Yes/No
Whether Reportable	:	Yes/No