

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-24140-2021

Date of decision: 25.05.2023

GURBHAG SINGH AND ANOTHER

.....Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Mohit Kumar, Advocate
for the petitioner.

Mr. Deepanjay Sharma, DAG, Punjab.
for respondents No.1 to 4.

Mr. Neeraj Madan, Advocate for
Mr. Vikrant Gularia, Advocate
for respondents No.5 to 8.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India for seeking issuance of directions to the respondents to protect the rights of the petitioner enshrined under Article 300-A which was alleged to have been violated at the instance of private respondents No.5 to 7 and alleging that respondent No. 8 had travelled beyond his powers and jurisdiction.

2. The case of the petitioners in the present writ petition is that they are settled in America and are Non Residents of India, They noticed illegal encroachment of the village land by the villager and also illegal mining taking place. The Panchayat did not protect their property despite

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various complaints having been lodged by them against the erring persons. It was alleged that the Panchayat was also having an active role in perpetrating such illegality and sheltering the illegal miners. Initially complaints were moved before the local authority including the Deputy Commissioner, Block Development, Panchayat Officer and Senior Superintendent of Police to seek their indulgence, however, no action was taken thereupon. Accordingly, the petitioners started raising construction of a boundary wall in order to protect their farm from animals and such nefarious activities by the private respondent. However, a false and frivolous complaint is stated to have been submitted before the Police alleging an encroachment over the government Gohar (Rasta) by concealing the true facts.

3. The petitioners claimed that they had not encroached over any area of Panchayat land or the Gohar land as has been alleged and that without verification of the same, the respondents started interfering in the possession of the petitioners and restrained the petitioners from raising construction of the boundary wall till the demarcation process is undertaken by the revenue authorities.

4. The present petition is thus filed by the petitioners alleging that there was an intent to harass and humiliate the petitioners. The private respondents No.4 to 7 had even filed a Civil Suit against the petitioners alleging that they are encroaching over the water channel and that no interim order had been granted by the Civil Court. An application was moved by the petitioners under Order 7 rule 11 which is still pending consideration and that the present proceedings were counter blast.

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5. Pursuant to the notice issued, a status report by way of affidavit of Ajay Singh, PPPS, Deputy Superintendent of Police, Sri Anandpur Sahib, District Rupnagar had been filed. The relevant extract of the same is reproduced hereinafter below:

“2. That with regard to the subject matter of the present petition, it is respectfully submitted that one complaint bearing No. 59-Dasti- PP-BHT dated 21/09/2021 was received in the office of Incharge, Police Post Bharatgarh, District Rupnagar from the Panchayat of Gram Panchayat Taprian (Bada Pind), District Rupnagar alleging therein that Baldeep Singh was habitual of taking illegal possession of the panchayat land, in which regard, resolutions were passed but the demarcation could not be completed and now, they were trying to take illegal possession of the government passage and accordingly, it was requested to stop Baldeep Singh from raising an illegal construction till the time the demarcation is completed.

3. That it is respectfully submitted that pursuant to the receipt of the aforementioned complaint, the police party headed by SI Balbir Singh (respondent No. 9) visited the spot and inspected the spot besides hearing both the parties at the spot where, both the parties were alleging the property in question to be their respective property and Gurbhag Singh, Baldeep Singh and Hardev Singh were raising construction at the spot. In the meantime, the public had also gathered at the spot including the panchayat members and the President of the Gurdwara Sahib, who stated that the disputed land was government property, upon which, Gurbhag Singh, Baldeep Singh and Hardev Singh become aggressive and start making video at the spot besides abusing a lot. Since, the situation at the spot was deteriorating and there were chances of fight between the panchayat members with Gurbhag Singh, Baldeep Singh and Hardev Singh, therefore, in order to keep the

situation under control and to ensure the implementation of law and order, the Panchayat was advised to get the disputed property demarcated and to stop the construction till the demarcation is done besides advising the parties to follow-up their case before the competent Court of law with regard to the ownership of the disputed land. In this regard, DDR No. 7 dated 26/09/2021 was registered in the daily diary register of police post Bharatgarh, PS Kiratpur Sahib, District Rupnagar (Annexure P-5).

4. *That it is respectfully submitted that thereafter, one letter dated 30/09/2021 was received in the office of the Incharge, PP Bharatgarh from the Block Development and Panchayat Officer, Rupnagar directing therein to stop the illegal possession being taken by Gurbhag Singh, Baldeep Singh and Hardev Singh on the land of Gram Panchayat Taprian Bada Village till further orders. Accordingly, Gurbhag Singh, Baldeep Singh and Hardev Singh were informed about the aforesaid order dated 30/09/2021 and directed to not raise any further construction on the disputed land till further orders from the office of BDPO, Rupnagar. The true translated copy of the letter dated 30/09/2021 is being annexed herewith as Annexure R-1/T for the kind consideration of this Hon'ble Court.*

5. *That it is respectfully submitted that vide the present petition, the petitioners have prayed for issuance of writ of mandamus directing the respondents to protect the alleged property of the petitioners under Article 300-A of the Constitution of India besides praying for protection of their life and liberty.*

6. It is evident from a perusal of the above that the matter is in fact a civil dispute amongst the parties with respect to the demarcation of

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the property qua which a civil suit is pending. There is no occasion of any threat to the life and liberties of the petitioner. The *inter se* civil rights between the parties shall be determined by the concerned Civil Court. There is thus no occasion for this Court to exercise its writ jurisdiction in the given facts of the present case. There is no basis for this Court to come to a conclusion that the lives and liberties of the petitioners are in any manner threatened by acts or omission on the part of the official respondents.

7. The present petition is accordingly dismissed at this stage for the reasons as aforesaid. Liberty to the respective parties to agitate their respective claims before the competent Court.

(VINOD S. BHARDWAJ)
JUDGE

MAY 25, 2023
Vishal Sharma

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