

In the High Court of Punjab and Haryana at Chandigarh

(115)

**CWP No. 24054 of 2023
Date of Decision: 19.10.2023**

Nakli Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

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

Present: Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Maninder Singh, DAG, Punjab.

Mr. Vijay Kumar Chaudhary, Advocate
for respondent No. 4-Gram Panchayat.

SURESHWAR THAKUR, J. (ORAL)

1. The learned counsels are *ad idem*, that the concurrently made verdicts of eviction, in respect of the petition land(s) were not made dependent upon a demarcation report, as became prepared by the empowered revenue officer concerned.

2. The said submission is rested on the premise, that though the empowered revenue officer concerned, did conduct, a demarcation of the sites concerned, but the appositely prepared report, was never tendered into evidence, nor became proven, in accordance with law. In consequence, they are *ad idem*, that thereby there was want of valid proof emerging in respect of the demarcation report, if any, which became prepared by the demarcating officer concerned. The dispute which has emerged is in respect of any encroachment being made on the estate of the one litigant, thus by the adversarial litigant, given the estates of each abutting each other.

Resultantly, the extent of the said encroachment, as, made on the estate of

one estate holder by the other estate holder, but required the tendering besides proof, in accordance with law, thus of the demarcation report. However, it is consensually submitted before this Court, that the said proof but on the above ground has not emerged. Consequently, they make a conjoint submission before this Court, that the concurrently made verdicts of eviction, be quashed and set aside, and, thereafter an order of remand be made to the Assistant Collector concerned, with a direction to make a fresh decision, in accordance with law, but in a time bound manner on the remanded lis.

3. In consequence, after accepting the above made conjoint submission, the instant petition is allowed. The impugned orders are quashed and, set aside, and, the lis is remanded to the learned Assistant Collector concerned, who after seeking a fresh demarcation report from the empowered revenue officer concerned, thus within a period of three months shall make a lawful speaking decision on the relevant lis but after hearing all the affected persons concerned.

4. On a request for making of demarcation of the disputed sites, thus being made by the Assistant Collector concerned, to the empowered revenue officer concerned, thereupon the said request shall be forthwith complied with, and, the validly drawn demarcation report shall be forthwith transmitted to the Assistant Collector concerned. Moreover, the author of the demarcation report, shall also be ensured to step into the witness box, so that thereby he renders proof in respect of his making a valid report vis-a-vis the disputed sites concerned. In addition, permission for making cross-examination(s), upon the author of the demarcation report, shall also be afforded to the affected thereby litigant concerned.

Gram Panchayat concerned, submits, that after successful execution of warrants of possession, rather possession over a large chunk of the disputed lands, has been assumed by the Gram Panchayat concerned.

6. If so, yet the above would not be an impediment for this Court in making the above order, as the said assumption of possession may be undone in case a binding, and, conclusive decision adversarial to the Gram Panchayat concerned, becomes recorded by the Courts of law.

7. All the counsels, appearing today before this Court, are directed to ensure that no litigant, whom they represent, shall cause any obstruction or hindrance to the empowered officer concerned, at the time when he proceeds to make the demarcation of the relevant sites. In case, if any obstruction or hindrance is made at the instance of any of the litigant concerned, thereupon to obviate the above, the empowered revenue officer concerned, may seek the assistance of the jurisdictional SHO concerned, who, on such assistance being asked for, thus shall ensure the deployment of police personnel at the site concerned. Moreover, during the pendency of the lis before the remandee Court, none of the litigants shall change the nature, possession of the petition land(s), nor shall they alienate the petition land(s).

8. The pending application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

October 19, 2023
Gurpreet

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