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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-29416-2022

Date of decision:21.03.2023

BALBIR SINGH

...Petitioner

Versus

STATE OF PUNJAB AND ORS

...Respondents

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

Present: Mr. C.S. Singhal, Advocate
for the petitioner.

Ms. Monika Jalota, Sr. DAG, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. Status report on affidavit has been filed on behalf of respondents No.1 to 4 by the learned State counsel, and, the same is taken on record.
2. The petitioner has alleged in the petition, that an encroachment, upon, a recorded *Gair Mumkin Rasta* has been made by one Amolakh Singh, and, by one Jaspal Singh. Even a complaint in the above regard was made to the Competent Authority, whereafter as revealed in paragraph 6 of the reply, on affidavit, furnished to the instant petition, by the respondent-State, an enquiry was conducted by the BDPO Phillaur, for determining the factum of encroachment, if any, as made on the *Gair Mumkin Rasta*. However, if the enquiry report became founded upon a valid demarcation becoming conducted of the relevant site by the Competent Revenue Officer, thereupon alone it may have some validity.

3. In that regard it it is not clear from a reading of the reply, on affidavit, that in the BDPO Phillaur making a report about the alleged fact, he had depended, upon, a valid demarcation made of the relevant site, rather by the empowered Revenue Officer concerned.

4. In consequence, the decision taken on the complaint by the Competent Authority, is completely flawed, and, is liable to be rejected.

5. In consequence, the BDPO concerned, is directed to ensure, that after a valid demarcation is made of the site concerned, and, if in the said demarcation, some encroachments are noticed to be made, on the recorded *Gair Mumkin Rasta*, by the encroachers concerned, thereupon, he shall forthwith institute a petition 7 of The Punjab Village Common Lands (Regulation) Act, 1961, before the learned Collector concerned. Upon receiving such a petition, the learned Collector concerned, shall pass a speaking decision thereons, but after hearing all affected persons, but assuredly within a period of 4 months of its preferment before him.

6. Disposed of.

(SURESHWAR THAKUR)
JUDGE

21.03.2023
Ithlesh

(KULDEEP TIWARI)
JUDGE

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