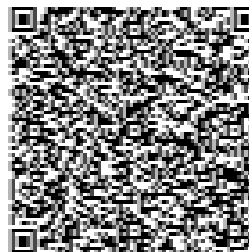


2024:PHHC:095845-DB



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

(118)

CWP-4223-2022 (O&M)

Decided on: 29.07.2024

Devinder Singh & another

.....Petitioner (s)

Versus

Commissioner, Rohtak Division Rohtak & othersRespondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.Rajinder Goel, Advocate, for the petitioner (s).

Mr.Ankur Mittal, Addl.A.G., Haryana
Mr.Saurabh Mago, DAG, Haryana.

Mr.Deepak Vashishth, Advocate
Mr.Sunil Bhardwaj, Advocate
Mr.Rahul Gautam, Advocate
for respondents No.4, 18, 20, 24 & 25.

G.S. Sandhawalia, J. (Oral) :

1. The petitioners, who were arrayed as respondents No.10 and 12 before the Assistant Collector, Bahadurgarh, had been proceeded against for illegally encroaching upon Khasra No.79 (5-19) Gair Mumkin Phirni. The petitioners are 2 out of the 24 persons and were arrayed as respondents No.10 and 12 in the petition filed. The allegation qua Mahender @ Mahender Singh was that he had encroached upon 257 sq.yards land shown as ABC in red colour whereas 66 sq.yards land encroachment had been shown by ABC in red colour qua Devinder Singh.

2. A perusal of the petition filed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 would go on to show that it was on the strength of a demarcation report dated 18.01.2020 (Annexure R-1), the proceedings had been initiated. The Assistant Collector, vide order dated 07.01.2021 (Annexure P-4) had directed ejectment and removal of the encroachment since the defence was only that no demarcation report took place in their presence and they were not bound by it and the report was incomplete. It is pertinent to mention that respondents did not opt to get a further demarcation done in support of their claim.

3. The Assistant Collector vide order dated 07.01.2021 placed reliance upon the same and ordered eviction, which is subject matter of challenge and 3 appeals had been filed against the said order by different respondents who were affected by the said order. The Collector vide order dated 27.07.2021 (Annexure P-5) came to the conclusion that the width of the rasta was 27 ½ feet but there was encroachment which had made it narrow and the common men were facing difficulty and thus, the appeals were dismissed, directing to maintain the width of the rasta to the extent of 27 ½ feet. Two revision petitions came to the filed by the affected persons and the petitioners had filed Revision No.261 before the Commissioner who, vide order dated 11.10.2021 (Annexure P-7) accepted the defence of the present petitioners while noting that there were three other reports dated 16.02.2020, 26.02.2020 and 26.07.2020. He, therefore, directed that fresh demarcation be conducted over the disputed rasta in the presence of the concerned and affected parties and ordered that the objections should be decided and the encroachment were to be removed/demolished on the

same day and videography of the demarcation be done. Compliance report was thus called for.

4. The petitioners then approached this Court by way of filing the present petition for setting aside the said orders. The interest of the petitioners was protected vide interim order dated 04.03.2022 but the rest of the process, as ordered by the impugned order, were directed to be continued.

5. It is not disputed that in pursuance of the same, a fresh demarcation report has now been placed on record dated 04.04.2022 (Annexure R-4). A perusal of the same would go on to show that after following the due procedure and complying with the order of the Commissioner and by using the DGPS Survey Machine and videography being done, demarcation was again done of Davinder son of Attar Singh and Mahender son of Chhotu in their presence and their names find mention. A perusal of the demarcation report would go on to show that it had been found that they are in possession of 260 & 271 sq.yards respectively. In such circumstances, we are of the considered opinion that a factual matrix has been recorded strengthening the earlier demarcation report and the subsequent one, as directed by the Commissioner has proved the factum of unauthorized occupation and therefore, there is no reason now to interfere with the orders passed by the Commissioner.

6. Faced with this situation, counsel for the petitioners submits that petitioners be given one month time to comply with the order and remove the encroachments at their own costs so that they can retrieve the raw material on the basis of which the encroachment has been done.

7. We accordingly grant the necessary indulgence. In case the encroachment is not removed by 31.08.2024 and the petitioners do not comply with the order, it will be open to the authorities to enforce the orders passed by the authorities.

8. With the above-said directions, the present writ petition stands disposed of.

(G.S. SANDHAWALIA)
JUDGE

29.07.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No