

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

CWP-3710 of 2024
Date of Decision: 27.02.2024

Ranbir Singh and others

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Raman Chawla, Advocate for the petitioners.

Mr. Saurabh Mago, Deputy Advocate General, Haryana.

Sureshwar Thakur, J. (Oral)

1. The present petitioners, who are inhabitants of the revenue estate concerned, and who have rights of common users of the disputed lands, preferred an application (Annexure P-2) before the Naib Tehsildar, Pillukhera, whereby they asked for the making of an order for the demarcation of the disputed lands being conducted. The reason for the present petitioners to institute Annexure P-2 before the Naib Tehsildar concerned, ensued from the factum, that certain encroachments prevailed on the land owned and possessed by the Gram Panchayat concerned, and no action against the encroachers concerned, becoming drawn by the Sarpanch of the Panchayat concerned.
2. In sequel to Annexure P-2, information notice (Annexure P-3) became drawn, which is a communication made by the Kanoongo of the Halqua concerned, to the Patwari of the Halqua concerned, to proceed to make demarcation in the disputed site. However, it appears that since there was

obstruction and resistance on the part of some vested interests rather, in the Halqua Patwari making a lawful demarcation on the disputed site, thereby the Halqua Kanoongo addressed a communication dated 19.05.2023 (Annexure P/5) to the Assistant Collector, whereby on the above ground he asked that police help be provided to him and also a Duty Magistrate be appointed for thus, enabling that peaceful and unobstructed demarcation of the disputed site hence takes place.

3. In sequel to Annexure P-5 through Annexure P-6, the request as spoken in Annexure P-5 became assigned to the Halqua Patwari.

4. Be that as it may, the entire process for ensuring a peaceful and unobstructed demarcation being made on the disputed site, rather has been completely forestalled through the making of Annexure P-7, whereby the order carried in Annexure P-6 has been withdrawn. The inapt sequel of the impugned Annexure P-7, is that, thereby there is an estoppel against the aggrieved from the purported encroachment made on the land owned and possessed by the Gram Panchayat concerned, to on culmination of valid demarcation of the disputed sites, thus subsequently institute a petition for eviction against the encroachers concerned, rather, before the Assistant Collector concerned. Therefore, Annexure P-7 is required to be quashed and set aside as thereby it has made an ill-deterrence against the institution of a petition for eviction against the encroachers concerned.

5. In consequence, after setting aside Annexure P-7, a direction is made upon the Sub Divisional Magistrate, Safidon, to ensure that the Halqua Patwari is, on the date notified to all affected persons, thus, becomes purveyed

all the requisite police help besides a Duty Magistrate is appointed so as to ensure that on the relevant date, unobstructed and peaceful demarcation of the disputed sites takes place.

6. Furthermore, in case upon demarcations being made of the land owned and possessed by the Gram Panchayat concerned, echoings are made in the relevant report qua certain encroachers, making encroachments upon the disputed land, thereupon, the BDPO concerned, shall forthwith institute a petition for eviction against the encroachers concerned. On such a petition becoming instituted, the Assistant Collector concerned, is directed to make a lawful decision thereon, but after hearing all affected persons concerned.

7. Disposed of accordingly along with all pending applications, if any.

(SURESHWAR THAKUR)
JUDGE

27.02.2024
Varinder Prashad

(LALIT BATRA)
JUDGE

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