

**102 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

**CWP-3703-1996 (O & M)
Date of Decision : 02.02.2024**

RAMA NAND Petitioner

Versus

COMMISSIONER & ORS. Respondents

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

Present: Mr. Jai Vir Yadav, Senior Advocate with
Ms. Sunita Shekhawat, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. P.P.Chahar, Sr. DAG, Haryana and
Mr. Saurabh Mago, DAG, Haryana

Mr. J.P.Sharma, Advocate
for respondent No. 4 – Gram Panchayat.

SURESHWAR THAKUR, J. (Oral)

1. After hearing the learned counsel for the parties for a considerable length of time, all the counsels are ad idem, that the demarcating officer concerned, did not step into the witness box to prove the demarcation report, as became prepared by him.
2. They are also ad idem that thereby the said report cannot be deemed to be proven, in accordance with law. Consequently, they make a joint statement before this Court that, in the face of a defective demarcation report, and, which also became relied upon respectively by the learned Assistant Collector concerned, and, by the learned Commissioner concerned, in theirs respectively making the impugned Annexures P-3 and P-5, thereby, the gross injustice has been done to

the litigants.

3. In sequel, they are also ad idem that after quashing the impugned orders, this Court may proceed to make an order of remand to the Assistant Collector First Grade concerned.

4. In the wake of the above, the instant writ petition is allowed and the impugned orders (Annexures P-3 and P-5), are quashed and set aside, but with a direction (supra) to the learned Assistant Collector First Grade concerned, to ensure that a valid demarcation of the disputed sites, becoming conducted by an empowered revenue officer and further that the demarcation report, becoming ensured to become proven, in accordance with law, by its author.

5. The Assistant Collector concerned, shall proceed to make a fresh speaking decision on the remanded *lis*, but within a period of three months and also after hearing all affected persons concerned.

6. In case in the said proven demarcation report, it is revealed that the '*Chhatri*' and/or '*Dharamshala*' is raised upon *abadi deh* lands, and is also revealed thereins, that open spaces surrounding the said *Chhatri* or a *Dharamshala*, have also been purportedly encroached, upon, by the present petitioner, resultantly thereby it is open to the Gram Panchayat concerned or any aggrieved, who are owners of *abadis*, within the *abadi deh* lands, to seek thus thereby respective additions in the eviction petition, besides to also make with the leave of this Court, thus averments relating to whether *Chhatri* or a *Dharamshala*, if found on *abadi deh* lands, is not an *abadi*, which is otherwise permissible to be raised on the *abadi deh* lands, as the import of *abadi* is none else, than the same being a dwelling unit rather for

habitation therein, of the *abadi* owners within the *abadi deh* lands, and that purportedly any *chattri* and/or *dharamshala* raised on *abadi deh* lands, but necessarily meant for the exclusive habitation therein of any *abadi* owner in the *abadi deh lands*, thus, prima facie, may not be raisable on *abadi deh* lands.

7. If in the above event, the above echoings are made, and the said application(s) for amendment is cast before the Assistant Collector concerned, thereupon, the latter shall within a period of three weeks thereafter, thus in accordance with law, make such orders thereons, as deemed fit.

8. Subsequently, an opportunity to the present petitioner to file a response to the amended petition shall also be granted.

9. Furthermore, since the adjudication, to be made on conversion of a simpliciter eviction petition cast under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to Haryana), into a title dispute requires that the said title is to be decided in the manner petition, alike a decision on a title suit made by the jurisdictional competent Civil Court concerned, thereupon, the Assistant Collector concerned, shall strike issues on all the relevant pleadings and shall also permit the litigants concerned to adduce thereons the relevant discharging evidence, on those issues whereons such discharging onus is cast.

10. Therefore, in the above event, it is further clarified that the completest adjudication on the remanded *lis* shall be made by the Assistant Collector concerned, but within six months from today.

11. Since the main case itself has been decided, thus, all the

pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(LALIT BATRA)
JUDGE

02.02.2024

kavneet singh

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