

In the High Court of Punjab and Haryana at Chandigarh

(117)

**CWP No. 5494 of 2024
Date of Decision: 07.3.2024**

Balwan Singh

.....Petitioner

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Priyavrat Prashar, Advocate
for the petitioner.

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

SURESHWAR THAKUR, J. (ORAL)

1. Through the instant petition, the petitioner impugns the concurrently drawn verdicts of eviction, which are respectively embodied in Annexure P-4, Annexure P-6, Annexure P-8, and, Annexure P-10.

2. One Naresh Kumar-respondent No. 6, instituted a petition under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (as applicable to the State of Haryana) against the petitioner, and, against respondents No. 7 and 8 herein, seeking therein their eviction from the petition land. Through a decision made thereons on 18.1.2021 (Annexure P-4), the Collector concerned, drew a verdict of eviction, whereby he thus ordered for the eviction of the respondents therein, from the petition land(s).

3. Being aggrieved from Annexure P-4, the petitioner, and, respondents No. 7 and 8, thus preferred a statutory appeal thereagainst, before the learned statutory appellate authority below, and, on the said statutory appeal, the appellate authority concerned, through an order made thereons on 27.4.2021 (Annexure P-6) concurred with the decision, as became earlier

rendered by the Collector concerned (Annexure P-4).

4. The aggrieved (supra) from Annexure P-6, preferred another appeal before the statutory appellate authority below. However, through an order made thereons on 2.3.2023 (Annexure P-8), the above statutory appeal also became dismissed. Petitioner Balwan Singh becoming aggrieved from Annexure P-8, preferred a revision petition before the competent revisional authority, which through an order made thereons on 13.9.2023 (Annexure P-10), dismissed the revision petition (supra).

5. Consequently, the judgment debtors/the petitioners herein becomes aggrieved from the above concurrently made verdicts of eviction against him, and, is led to constitute thereagainst the instant writ petition before this Court.

6. The gravamen of the entire lis is grooved in the tenability or otherwise of the demarcation report, thus revealing that encroachment(s) was made upon the petition land, at the instance of the present petitioner.

7. The learned counsel for the petitioner submits, that the said demarcation report never became tendered into evidence by its author, nor became proven, in accordance with law. He also further submits that, thus no probative sanctity was to be assigned to the said demarcation report, as it remained unproven by its author, through his stepping into the witness box.

8. To dislodge the effects of the impugned verdicts, a demarcation report, as became drawn prior to the filing of the petition (supra), thus became relied upon by the petitioners therein, but thereto no credence became assigned rather by the statutory authorities below. If the said demarcation report was a validly drawn report, and, that could have taken place, only when the said report was evidently drawn in terms of the relevant canons and norms, thus governing the conduct of, and, the consequent thereto drawing of the said demarcation report, thereupon it was amenable for credence being assigned

9. The imperative norm for validating a demarcation report, is but that, it was required to be evidently proven, that at the site concerned, the revenue officer concerned had carried the apposite Masavi, and, had therefrom, ascertained the fixed points, and, subsequently had relayed them onto the ground. Moreover, the said demarcation report was required to be tendered into evidence, by the revenue officer concerned, who drew it, and thereons, an exhibition mark was required to be also made. The reason for the above being done, arose from therebys able proof rather would become garnered by the demarcation report, whereas only upon, its being per se placed on record, rather would not mobilize any conclusion, that merely thereby it has some evidentiary sanctity. The said demarcation report but evidently garners no evidentiary sanctity, as its author also failed to tender the same into evidence.

10. Moreover, an incisive scrutiny of the record discloses, that irrespective of the fact, that even if the relied upon demarcation report, was purportedly prepared in terms of the relevant norm (supra), that as a matter of fact, thus for it being read as valid evidence against the encroacher(s) concerned, rather it became not tendered into evidence by the author of the said demarcation report. Since the tendering of the demarcation report, by its author, was but imperative, as thereupon alone the ablest proof qua its valid drawings, would thus spur. Consequently, when the said demarcation report was not tendered into evidence by its author, therefore its becoming merely placed on record, does not lead this Court to infer, that thereby evidentiary solemnity, as became assigned thereto, thus was assignable thereto.

11. Be that as it may, in the larger interest of justice, thus for an infirmly drawn demarcation report, and, also for the same being not assigned creditworthiness, this Court deems it fit and appropriate to quash the impugned orders (supra). Nonetheless, also in the larger interest of justice, since thereby,

instance of the present petitioner, rather would remain undetected, whereupon prejudice may ensue to the Gram Panchayat concerned. Therefore, for also enabling the Collector concerned to, after the remand of the lis, to him, thus make a decision afresh thereon. Resultantly, for thus facilitating the makings of a valid fresh decision thereon, it is deemed fit and appropriate, that the decision on remand of the lis, shall be preceded by the Collector concerned, thus ordering for an able demarcation of the disputed sites, thus being made by an empowered revenue officer concerned.

12. Therefore, the present writ petition is allowed, and, after quashing the impugned orders (supra), the lis is remanded to the learned Collector concerned, who shall, before making a lawful decision, on the remanded *lis*, ensure that an independent demarcation becomes carried by an empowered revenue officer, who shall before proceeding to the site concerned, issue notices to all aggrieved and thereafter shall in accordance with law, make a valid/lawful demarcation of the site concerned.

13. After the drawing of the demarcation report by the officer concerned, he shall forthwith transmit his report to the Collector concerned, who shall ensure that the said report is proven in accordance with law, but after giving an opportunity to the aggrieved therefrom, hence the litigants concerned, rather to make cross examination(s) upon the author of the demarcation report.

14. All the above exercises shall be ensured to be completed within six months from today but after hearing all affected concerned.

(SURESHWAR THAKUR)
JUDGE

(RITU TAGORE)
JUDGE

March 07, 2024
Ithlesh

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