

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

137

CWP-8006-2024 (O&M)
Date of Decision: 08.04.2024

Gurmalak Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Karan Garg, Advocate
for the petitioners.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioners allege that some encroachments are made, upon the lands designated, as Gair Mumkin School, Gair Mumkin Samadh, Gair Mumkin Aabadi, Gair Mumkin Hadda Rori, Gair Mumkin Pahi, Gair Mumkin Panchayat Ghar and way from chappar to Shamshan Ghat, situated at village Saidipur, Block Samana, District Patiala. Therefore, for ensuring that lawful action against the encroachers, upon the above lands, is drawn by the Sarpanch of the Gram Panchayat concerned, and/or by the BDPO concerned, thus a validly made demarcation of the relevant sites is required to be conducted by an empowered revenue officer concerned.
2. In the above endeavour, the BDPO, concerned, has addressed various letters i.e. Annexure P-3, Annexure P-5 and Annexure P-9 to the Tehsildar Samana, for ensuring the conducting of demarcation of the

relevant lands, through his making directions, upon an empowered revenue officer concerned. However, despite the said letters Annexure P-3, Annexure P-5 and Annexure P-9 becoming addressed to the Tehsildar, Samana, yet no further directions have been passed by the Tehsildar, Samana, upon any empowered revenue officer concerned, so that thereby demarcation of the above sites is conducted. Consequently, for the failure of action takings by the Tehsildar, Samana, thus no lawful motion yet has been drawn under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for short 'the Act of 1961'), for ensuring that the encroachers, who have made encroachments, upon the above sites, are ensured to be removed therefrom, thus through a decree of eviction becoming rendered against them.

3. Consequently, the dereliction of duties on the part of Tehsildar, Samana are deprecated, and, a show cause notice is directed to be issued upon him, by the Collector of the revenue District concerned, for thereby eliciting from him the reasons for his failure to draw any lawful action, upon, Annexure P-3, Annexure P-5 and Annexure P-9.

4. Be that as it may, Tehsildar, Samana is directed to forthwith appoint an empowered revenue officer for conducting a lawful demarcation of the relevant sites. Subsequently, if in the said validly conducted demarcation of the petition land(s), some encroachments are revealed to be made thereons, thereupon either the Sarpanch of the Gram Panchayat concerned, or the BDPO concerned, shall forthwith move a petition under Section 7 of the Act of 1961, thus before the Assistant Collector concerned,

who shall draw a lawful speaking order thereons, but after hearing all the affected persons concerned, thus within a period of six months of the said petition becoming preferred before him.

- 5. With the afore observations, the petition stands disposed of.
- 6. All pending applications, if any, stand disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

08.04.2024
Satyawar

- 1. Whether speaking/reasoned: Yes/No
- 2. Whether reportable: Yes/No