

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

2024:PHHC:127993-DB



(203)

1. CWP-7283-1999 Date of Decision: 25.09.2024

Mahabir & others --Petitioners

Versus

The Collector & others --Respondents

2. CWP-7284-1999(O&M)
Mahabir & others --Petitioners

Versus

The Collector & others --Respondents

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

Present:- Mr. Kulwant Singh, Advocate for the petitioners.

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

Mr. R.A. Sheoran, Advocate with
Mr. Sushil Sheoran, Advocate for
respondents no.3 & 4.

G.S. SANDHAWALIA.J (Oral)

1. This order shall dispose of the aforementioned two writ petitions as common issue is involved therein. For the sake of brevity facts have been extracted from CWP-7283-1999.

2. Challenge in these two writ petitions is to the orders dated and 25.11.1993 and 30.03.1999 (Annexures P-4 and P-11) respectively, whereby the eviction order was upheld. The appeal filed by the Sarpanch, was allowed and the order dated 17.02.1997, whereby the Assistant Collector had given the right to the petitioner to purchase the land, was set

aside by the Collector. The eviction order Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (for the Act) was on account of the unauthorized possession on Rasta No.257. It was found that petitioners had 18 marlas of land and in addition to that they were in illegal possession of 1 marla of land which was part of Rasta No.257. It is under such circumstances that the application under Section 7 of the Act was filed. In the written statement also the plea was only that they had a right to purchase the said land as they had constructed a house on Plot No.254. The Sarpanch of the village had appeared as PW-3 and deposed that there was a demarcation report Ex. A-2 and the site plan Ex.P-3 and in such circumstances, on the basis of the evidence on record, the Assistant Collector had passed the eviction order. It was also noticed that the petitioners had stated that if the Gram Panchayat wants to remove the possession from Rasta No.257, they had no objection.

3. Resultantly, a finding was given that it was a *Gair Mumkin Rasta* and the eviction was ordered keeping in mind the statement given by present petitioner Mahabir Singh. Instead of removing the encroachment, apparently, when the Assistant Collector went on the site on 06.12.1996 and it was reported that the Rasta is totally clear. During the execution proceedings, on the basis of the spot visit, the Assistant Collector gave direction to the Gram Panchayat that the market price of the land be assessed and the approval be taken from the Director of Gram Panchayat and value be assessed, which resultantly led to the filing of the appeal by the Sarpanch of the village namely Satyabir Singh against the order dated 17.02.1997.

4. Thereafter, the land owners also filed an appeal against the ejectment order praying for condonation of delay in November, 1996. The collector had dismissed the appeal on 30.03.1999 against the eviction order by holding that the same was time barred while recording that Rasta is 7 karams and out of which about in one karam the appellants were in unauthorized occupation. Similarly, the order wherein right had been given to purchase the land, was held to be illegal and directions issued were taken back to remove the unauthorized occupation. The claim, as such, for purchase was based on the policy dated 12.03.1976 (Annexure P-7) which would go on to show that it was only if there was some house constructed and did not obstruct the passage or any other programme of village then that land could be sold at the market price rate and 15% to 50% fine over the above value could be charged keeping in view the economic conditions of the person. It was apparently found that the land was part of the passage and the purchase order could not have been passed, which had been rightly set aside by the Collector. Even otherwise, we are of the considered view that having consented to vacate the land and not having filed the appeal in time, the efforts thereafter to nullify the order of eviction by offering to purchase the land, was wrongly accepted by the Assistant Collector, which had been rightly rectified by the Collector while noticing that the width of the street had been restricted.

3. In such circumstances, we dismiss both the writ petitions and vacate the interim order with liberty to the petitioners to remove the encroachment within a period of three months from today, failing which the State/Gram Panchayat concerned shall take steps to ensure that the same is removed in view of the directions already issued in **CWP-1893-2022**

(Subeg Singh & others Vs. State of Punjab and others), whereby this Court had directed the data to be given, of land in illegal occupation of residents of all villages of the State of Haryana.

4. Both the petitions are dismissed in the above terms.

(G.S. SANDHAWALIA)
JUDGE

25.09.2024
lucky

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No