

In the High Court of Punjab and Haryana at Chandigarh

[245]

CWP-15637-2021
Date of Decision: 16.01.2024

SANT SINGH AND OTHERS

..... PETITIONERS

VERSUS

STATE OF HARYANA AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr.Shoaib Khan, Advocate for the petitioners.

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

Mr. Pravinder Singh Chauhan, Advocate and
Ms. Vasundhra Asija, Advocate for respondent No.3.

Ms. Khushboo, Advocate for
Mr. P.K.Dwivedi, Advocate for respondent No.5.

Mr. Rakesh Roy, Advocate for
Mr. Abhilaksh Gaind, Advocate for respondent No.6.

SURESHWAR THAKUR, J. (ORAL)

1. Mr. Pravinder Singh Chauhan, Advocate, puts in appearance on behalf of co-respondent No.3, and, filed his memo of appearance, which is taken on record.
2. The present petitioners claimed themselves to be the lawful owners of the petition lands. However, they claimed that the Acquiring Authority did not include the petition lands in the notification of acquisition. Therefore, they pray that the respondents concerned, be directed to acquire the petition lands, through theirs launching acquisition proceedings in respect thereof, or be directed to hand over the vacant possession of the acquired

lands, to the present petitioners, who have claimed themselves to be the lawful owners thereof.

3. The present petitioners had instituted a suit bearing No.2373 of 2013 before the Court of the Ld. Civil Judge(Junior Division), Panchkula, wherein, they claimed the rendition of a declaratory decree, that the defendants therein, who are the respondents before this Court, be declared to be having no valid right, title or interest over the suit lands. Moreover, in the said suit, the plaintiffs also claimed the making of a decree of permanent prohibitory injunction, restraining the defendants, who are the respondents, before this Court, from interfering *vis-a-vis* the lawful possession of the plaintiffs, over the disputed/suit lands.

4. The Ld. Civil Judge(Junior Division) concerned, as revealed by annexure P-6, made a declining decree upon the said suit.

5. The aggrieved therefrom plaintiffs, who are the petitioners before this Court, challenged the dismissal verdict, as became made upon the relevant civil suit, thus by the Court of Ld. Civil Judge(Junior Division) concerned, through their rearing an appeal bearing No.113 of 2016, before the Ld. Appellate Court concerned.

6. However, it appears that the said appeal was withdrawn rather on anvil of a statement, to that effect, being recorded before the Ld. Appellate Court concerned, thus by the appellants.

7. Nonetheless, it is also revealed from an order drawn by the Ld. Appellate Court, on 07.02.2020, which occurs at page no.20 of the paper-book, that the reason, which prevailed upon the appellants to make an accepted statement, before the Ld. Appellate Court concerned, to withdraw the said appeal, and, which became ultimately ordered to, be so withdrawn, became

embedded in the factum, that there was no validly made demarcation of the disputed/suit lands. In consequence, the Ld. Appellate Court concerned ordered, as revealed by the hereinafter extracted paragraphs, which occurs at page 66 of the paper-book, that a valid demarcation of the suit land, be conducted. Moreover, if any party became aggrieved from the said made demarcation, liberty was reserved to the said aggrieved to choose, the appropriate remedy, as deemed fit and appropriate.

“XXXX XXXXXX XXX XXXX

“Accordingly, this Court considers it appropriate to direct the Tehsildar, Panchkula to appoint any competent official to conduct demarcation on the application moved by the appellants. Application for this purpose shall be moved within two weeks from today. The Tehsildar, Panchkula is directed to get demarcation conducted through digital/differential global positioning system or by any other electronic mode, if it will be appropriate, by hiring any agency for the said purpose. However, the charges for the said demarcation will be borne by the appellants. Tehsildar, Panchkula is directed to fix a date for demarcation of the land manually or by electronic mode, as the case may be and give two weeks prior notice to all the parties appearing in this

The demarcation be conducted within two months from the date of submitting of application by the appellants and report of the demarcation be supplied to the parties concerned, as per rules. If any party will be aggrieved, then the said party will have right to take appropriate remedy as per law.

In view of the joint statement made by the appellants, they are allowed to withdraw appeal as well as the suit, with liberty to take appropriate remedy as per law after receiving of the report of demarcation.”

8. It appears that though in purported compliance of the above extracted directions, as became made by the Ld. Appellate Court concerned, a demarcation report dated 05.06.2020 (Annexure P-13) has been placed on record. However, the learned counsel for the parties are, *ad idem*, that Annexures P-12 and P-13, are not drawn in conformity with the relevant rules

and instructions relating to the conducting of a valid demarcation of the disputed lands.

9. Moreover, they are also, *ad idem*, that this Court may for ensuring that justice is done to the present petitioners, that thereby a fresh demarcation be ordered of the disputed lands.

10. In consequence, given the above consensually made statement at the bar by the counsels appearing for the litigants concerned, this Court orders, that the empowered Revenue Officer concerned, to be appointed by the Assistant Collector concerned, shall forthwith make a valid demarcation of the disputed sites. The said demarcation be ensured to be concluded within two weeks from today.

11. In case the said demarcation report reveals, that the disputed khasra numbers, thus without any valid acquisition proceedings in respect thereof being launched, are yet in the possession of the Acquiring Authority, and, are as such utilized for the relevant public purpose, thereupon the Acquiring Authority concerned, may promptly in accordance with law launch acquisition proceedings in respect thereof, besides, may expeditiously conclude them.

12. Disposed of, accordingly.

(SURESHWAR THAKUR)
JUDGE

(HARSH BUNGER)
JUDGE

January 16, 2024
Anjal*

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