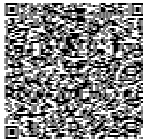


CWP-14325-2024

2024:PHHC:080795-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14325-2024
Date of Decision: July 01, 2024

RAM NIWAS Petitioner

Versus

STATE OF HARYANA AND OTHERS Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Ms. Shweta Bawa, Advocate for the petitioner.

LISA GILL, J.

1. Prayer in this writ petition is for directing respondent No. 2 to 5 to remove encroachment upon *gair mumkin rasta* situated in khasra No. 350/349/214/215 situated in Moja village Mangar, Tehsil Badkhal, District Faridabad and to decide representations dated 21.02.2024, 08.04.2024 and 15.04.2024.
2. Petitioner had admittedly filed CWP-28887-2023 with the same prayer. Writ petition was disposed of on 21.12.2023 with a direction that demarcation of area would be carried out of the disputed land. Liberty was afforded to petitioner to file appropriate petition under Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961 (for short – ‘the Act’) before

CWP-14325-2024

concerned Assistant Collector in case of any grievance. However, petitioner has filed the instant writ petition with the same prayer.

3. Learned counsel for petitioner vehemently argues that pursuant to demarcation carried out on 16.02.2024, it was found that there was encroachment upon common path (*gair mumkin rasta*). Various representations, which are attached as Annexures P4 to P9 with the writ petition, were submitted by petitioner but no action has been taken by respondent authorities. Learned counsel for petitioner insists that said representations are infact akin to petitions under Section 7 of the Act and should have been treated as such. However, we do not find any merit in this argument. Relevant part of order dated 21.12.2023 in CWP-28887-2023 reads as under:-

“3. Learned counsel for the State on instructions imparted to him by the officer concerned, submits that the petitioner may institute a petition under Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as "the Act"), before the Assistant Collector, concerned, seeking thereby the removal of encroachments, as allegedly made, on the gair mumkin street. Learned State counsel further submits, that the Collector concerned, shall prior thereto, forthwith ensure the makings of valid demarcations of the disputed lands, and, thereafter in case, thereins speakings are made, that the encroachments, are made on the gair mumkin street(s) at the instance of the encroachers concerned, thus, subsequently the copy of the said demarcation report shall be provided to the present petitioner, who shall within a week thereafter, institute a petition under Section 7 of the Act before the Assistant Collector, concerned.

4. Learned counsel for the petitioner, thus, seeks and, is granted to leave to withdraw the present petition.

5. Leave granted.

6. However, the above made submissions by the learned State counsel and which are accepted by the learned counsel for the petitioner, be

CWP-14325-2024

forthwith actioned at the instance of all concerned. On the petition under Section 7 of the Act becoming preferred before the Assistant Director concerned. Thereafter, the later shall, within three months of its preferment, thus proceed to make a lawful decision thereons, but after hearing all the affected persons concerned.

7. In view of the above, the present petition is disposed of along with all the pending applications, if any.”

4. In view of abovesaid order dated 21.12.2023 in CWP-28887-2023, petitioner was at liberty to have filed appropriate petition under Section 7 of the Act before competent authority. There is no ground whatsoever which calls for interference in this writ petition, at this stage. Argument that representations submitted by petitioner should be treated as petition under Section 7 of the Act are devoid of any merit, hence rejected.

5. Writ petition is, accordingly, dismissed with liberty to petitioner to avail remedy(ies) available to him in accordance with law.

6. There is no expression of opinion on the merits of matter.

(LISA GILL)
JUDGE

(SUKHVINDER KAUR)
JUDGE

July 01, 2024
rts

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