

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

2024:PHHC:133959-DB



(207)

CWP-14842-2018

Date of Decision: 14.10.2024

Ashok Kumar

--Petitioner

Versus

State of Haryana & others

--Respondents

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

Present:- Mr. A.K. Yadav, Advocate for the petitioner.

Mr. Saurabh Mago, DAG, Haryana.

Mr. Gaurav Jain, Advocate for respondent no.5.

Mr. Gaurav Tyagi, Advocate for respondents no.6 & 7.

G.S. SANDHAWALIA.J (Oral)

1. Challenge in the present writ petition is to order dated 07.05.2018 (Annexure P-3) passed by the Commissioner, Gurugram Division, Gurugram, whereby he set aside the eviction order and accepted the revision petition filed by respondents no.6 and 7.

2. The reasoning given for setting aside the eviction order dated 27.05.2015 (Annexure P-1) which had been upheld in appeal on 09.09.2015 (Annexure P-2) was primarily on the ground that the demarcation had not been conducted by taking three pucca points and therefore the directions of the Financial Commissioner had not been complied with. It was also noticed that even a civil suit was filed by one Hoshier Singh for permanent injunction. The allegations by the petitioners in the petition under Section 7 of Punjab Village Common Land Regulation Act, 1961 (for short the Act)

primarily were that respondents had encroached by constructing a pucca house and by bringing out a shed, the common passage had been blocked. The details were given in the application. The stand of the private respondents was that it was a forged demarcation report and report dated 24.12.2009 was wrong. The said report, as noticed, has been found not to be proper by the Commissioner. Since it is a case of alleged encroachment on the public land, we are of the considered opinion that the Commissioner should have remanded the matter to the authorities and directed that a fresh demarcation to be carried out in the presence of the concerned effected parties so that the matter could be decided afresh rather than giving a burial to the issue and the alleged illegal action of the private respondents. Any encroachment made on the public land would cause problem to the other residents and this aspect has not been kept in mind by the learned Commissioner. The written statement filed through the concerned B.D.P.O, at that point of time would go on to show that the Gram Panchayat is the owner of the land and the private respondents are in illegal possession. The alleged factual matrix has to be decided by the authorities below.

3. Resultantly, we modify the order of the Commissioner by partly setting aside the order passed by him. Accordingly, we remand the matter back to the competent authority to decide the application under Section 7 of the Act, at the first instance and direct the concerned revenue authorities to conduct a fresh demarcation in the presence of the concerned effected parties. Since the petition was filed way back 02.09.2014, a period of almost 10 years has gone by, it would be in the interest of justice, if, the matter is decided within a period of six months from today. It is clarified

that we have not commented on the merits of the case and the same would be decided on the basis of evidence *inter se* the parties.

4. The petition is disposed of in the above terms.

(G.S. SANDHAWALIA)
JUDGE

14.10.2024
lucky

(MEENAKSHI I. MEHTA)
JUDGE

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