

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2024.PHHC.092409-DB



(128)

CWP-16968-2024
Decided on : 23.07.2024

Tara Chand and others

.....Petitioner(s)

Versus

State of Haryana and others

.....Respondent(s)

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

Present: Mr. Vikram Singh, Advocate for the petitioner (s).

Mr. Saurabh Mago, DAG, Haryana.

G.S. Sandhawalia, J.(Oral)

In the present writ petition filed under Articles 226/227 of the Constitution of India the petitioner seeks the removal of the illegal encroachments from the Pond/Talaab namely Phatu Talaab situated in village Khedad (sic. Khedar), Tehsil Barwala, District Hisar. The said claim is based on demarcation report dated 01.03.2024 (Annexure P-4) and the subsequent application filed before official respondents qua the said removal. It is the specific case of the petitioner that the land is recorded as Kadim Gair Mumkin Johar in the revenue record.

2. We are of the considered opinion that firstly the private respondents have not been arrayed as respondent. Secondly under Section 7 (1) of the Haryana Village Common Lands (Regulation) Act, 1961 an inhabitant of the village can file application against any person who is in wrongful or un-authorized possession of any land or other immovable property in the village before the Assistant Collector of the First Grade having jurisdiction over the village.

3. In such circumstances, we are of the considered opinion that once there is an alternate and efficacious remedy available with the petitioner to approach the authority below, it would not be appropriate for this Court to interfere at this stage, since it is an factual aspect, which will have to be gone into regarding the extent of encroachment, in view of the demarcation report and the defence of the persons who are in occupation. The necessary exercise has to be carried before the authorities below.

4. Faced with this situation, counsel for the petitioner submits that he does not want to press the present writ petition and prays for liberty to approach the authorities below.

5. Dismissed as withdrawn with the liberty aforesaid.

(G.S. SANDHAWALIA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

23.07.2024
Naveen

Whether speaking/reasoned :	Yes
Whether Reportable :	No