

118 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-23040-2024 (O/M)

Date of decision : 12.09.2024

Bikkar Singh and others

..... Petitioners

Versus

State of Punjab and otehrs

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Hem Raj Bhardwaj, Advocate  
for the petitioners.

Mr. Navneet Singh, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. Petitioners (Bikkar Singh and others) have filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of mandamus for directing respondents No. 2 to 7 to remove illegal encroachments and by removing the gate installed over the public street by private respondents No. 8 to 13. A further prayer has been made for directing official respondents to decide the representation dated 06.04.2024 (Annexure P-13) within stipulated time, as per law.

2. Briefly, petitioners state that there is a public street in village Handa, Tehsil Moonak, District Sangrur, which is maintained by the Gram Panchayat of village Handa and the same is used by the village residents. It is stated that the houses of respondents No. 8 to 13 and some of the petitioners are also on that street. Petitioners allege that respondents No. 8 to 13 have illegally encroached upon the public street

and installed a gate thereon, which was objected to by the village residents and a fight took place, regarding which a case FIR No. 31, dated 03.03.2022 (Annexure P-3) was registered against private respondents. It is further stated that the petitioners had submitted a complaint regarding illegal encroachment by private respondents to the Block Development and Panchayat Officer, Andana at Moonak, whereupon the matter was investigated and the BDPO, vide his letter dated 09.01.2023 (Annexure P-4), wrote to the local police station for taking action. It is also stated that some of the petitioners, namely, Atma Singh and others have filed a civil suit against private respondents, wherein a restraint order dated 03.01.2023 (Annexure P-5) has been passed, whereby the defendant in the suit have been restrained from creating any hindrance in the use of the street.

2.1 Petitioners further state that despite the passing of the restraint order dated 03.01.2023 (Annexure P-5), private respondents tried to install a gate on the public street and then a quarrel took place, for which a version and cross version has been registered by the local police, vide FIR No. 120, dated 22.09.2023 and DDR No. 40 dated 05.10.2023 (Annexure P-6 and Annexure P-7, respectively). It is submitted that private respondents have installed gate on both sides of public street, regarding which the petitioners have already initiated contempt proceedings, which are pending.

2.2 Petitioners still further submit that they had submitted representation dated 26.10.2023 (Annexure P-10) to various officials regarding removal of encroachment on the public street, which was marked to the DSP, Moonak, who had further sent a report

dated 25.03.2024 (Annexure P-12) to SSP, Sangrur; however, it is stated that the concerned officials of the Panchayat Department/Gram Panchayat are not taking any action in the matter. Accordingly, the present writ petition has been filed.

3. Heard.

4. In the present case, petitioners allege that private respondents No. 8 to 13 have encroached upon public street by installing gates and despite various representations submitted by the petitioners, no action is being taken by officials of Panchayat Department/Gram Panchayat.

4.1 It is evident from the paperbook that as regards the alleged encroachment on the public street, the petitioners have already filed a civil suit for permanent injunction to the effect that the public street bearing khewat No. 257, khatauni No. 482, mustil and killa No. 84//27 (0-14), gair mumkin land, situated in the revenue estate of village Handa, Tehsil Moonak, District Sangrur, which is used by the plaintiffs and the defendants in the suit for going to the phirni of the village, is being claimed by the defendants to be their ownership, which is actually a public street and the defendants are restraining the plaintiffs from using the same and the defendants have no right to create hurdles in the use of the street by the plaintiffs.

4.2 Concededly, in the aforesaid suit, restraint order dated 03.01.2023 (Annexure P-5), already stands passed whereby the defendants in the suit have been restrained from creating any hindrance in the use of the street in question. It further appears that on account of certain quarrels amongst the rival factions, case FIR No. 31 dated 03.03.2022 (Annexure P-3), FIR No. 120 dated 22.09.2023

(Annexure P-6), DDR No. 40 dated 05.10.2023 (Annexure P-7) already stand registered. Still further, the petitioners have also initiated contempt proceedings against private respondents for their alleged violation of the restraint order dated 03.01.2023 (Annexure P-5), which is also pending.

5. Considering the aforementioned facts, when the petitioners have already availed their legal remedy and there are criminal cases registered against the rival factions i.e. petitioners and private respondents herein; the real intent behind filing of the present writ petition appears to be masked. Rather, a perusal of the photographs (Annexure P-8 Colly.) indicates that the rival parties have openly taken law into their hands. It is still to be determined as to which of the party is aggressor party. Since the civil suit and also the criminal cases/contempt proceedings are pending, I find no reason to entertain the present writ petition at the behest of the petitioners, accordingly, same is dismissed, however, leaving it open to the parties to pursue their cases before the appropriate courts/forums, in accordance with law.

5.1 Before parting with this order, I deem it appropriate to observe that maintaining law and order within the society is the responsibility/duty of the State and the State machinery. The photographs (Annexure P-8 Colly.) reflect a disturbing state of affairs and all appropriate measures are required to be taken against the erring persons, so as to maintain order in the society and to further ensure that a common resident of the village/community does not live in the fear of any untoward incident.

5.2 Let a copy of this order be given to the learned State counsel for onward transmission to all concerned to ensure that proper law and order is maintained in village Handa, Tehsil Moonak, District Sangrur.

6. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)  
JUDGE

12.09.2024  
sjks

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