

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

108

CWP-25070-2023 (O&M)
Date of decision: 15.02.2024

Laxman Dass and others

...Petitioners

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Sunil Sihag, Advocate for the petitioners.

Mr. Vivek Saini, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. Prayer in the present petition is for issuance of directions to respondents No.1 to 6 to maintain Law & Order and to initiate the proceedings against respondent No.7 for creating nuisance/obstruction, by way of raising construction on the road known as Barsat road situated at Panipat, after dismantling the same.

2. It has been alleged by the counsel for the petitioners that respondent No.7 had earlier preferred a civil suit before the Civil Court at Panipat for possession of land measuring 1 *Kanal* 2 *Marlas* alleged to have been encroached by the department i.e. PWD (B&R) by means of raising constructions and also claimed for mesne profits along with compensation against the department. It was averred in the above said suit that the plaintiff therein (respondent No.7 herein), was an owner in possession of the said

land. As per the Jamabandi for the year 2019-20, a metalled road had been constructed by the defendants in the said land holding, even though the land in question did not belong to the respondent-department and it was never notified for acquisition and the demarcation report confirms that respondent-department encroached thereupon.

3. Pursuant to the order 06.11.2023 passed by this Court, response has been filed by the Executive Engineer, Public Works Division (Bridges and Roads) stating therein that there is no encroachment on the Barsat Road, Panipat on the PWD land Rect. No.27, Killa No. 2/2/1 of village Azizullapur, as has been alleged by the petitioner. It has further been pointed out by the learned State counsel that as a matter of fact the demarcation of the road was initially incorrect and when the said fact came into their notice, they realigned the road.

4. After the realignment, respondent No.7 (plaintiff in the civil suit pending before the Civil Court) raised construction on the same and that the petitioner herein claims that he had access through that passage which is now in possession of respondent No.7 and the dispute, if any, is amongst the petitioner and respondent No.7 who claims to be the co-sharer in the said land.

5. Learned counsel for the petitioner also vehemently argued that he is a co-sharer in the above said land, which is claimed to be in sole ownership by respondent No.7, and that respondent No.7 has raised construction on the land to the detriment of the other co-sharers and that the said respondent is also claiming compensation, with respect to the said land, as sole and exclusive owner. He does not dispute about pending Civil Suit

but submits that the issue therein is separate.

6. Having heard learned counsel for the respective parties, I am of the opinion that the dispute is primarily between two private individuals as to whether they are joint owners in joint possession and as to whether respondent No.7 can claim himself to be the sole owner. Further, a civil suit is already pending before the Civil Court. The petitioner has the liberty to raise such issue before the Civil Court by being a party therein or by filing in own suit. The issue of joint ownership and possession is a civil dispute between the private parties. The rights *inter se* between the co-sharers, as regards their right to seek declaration/possession/compensation, if any, can only be determined by the Civil Court. There is no omission by the State in the present case.

7. The present writ petition is accordingly **dismissed**.

(VINOD S. BHARDWAJ)
JUDGE

15.02.2024

Mangal Singh

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