

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112) CWP-PIL-95-2023 (O&M)
Decided on : 05.03.2024

Lakhwinder SinghPetitioner(s)
Versus
State of Punjab and othersRespondent(s)

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI

Present: Mr. Amit Puri, Advocate for the petitioner (s).

Mr. Salil Sabhlok, Sr. DAG, Punjab.

Mr. A.S. Manaise, Advocate for respondent No.6 and
for the applicant in CM-7-CWPIL-2024.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-7-CWPIL-2024

Counsel for the applicant/proposed respondent No.7, Mr. Manaise submits that he does not press the application for impleadment. He has, however, put in appearance on behalf of respondent No.6 and filed his power of attorney.

Accordingly, the present application is dismissed as not pressed.

CM stands disposed of.

CWP-PIL-95-2023

Present Public Interest Litigation has been filed for seeking directions against respondent Nos.2 to 4, to remove all the unauthorized encroachments (Wall) made by respondent No.6 in connivance with respondent No.5, on the Panchayat land/*Chappar* measuring 4 kanals 16

marlas, situated in Khewat No.187, Khatauni No.298, Khasra No.30, village Mallian, Tehsil & District Gurdaspur.

2. A perusal of the paper-book would go on to show that it had come to the notice of respondent No.4, the Block Development Panchayat Officer that there was some encroachment upon the Panchayat land and there was issue of water drainage, on account of the encroachment upon *Chappar* and, therefore, strict action was to be taken for stopping the encroachment and construction material should be confiscated. The petitioner also gave a representation to the Deputy Commissioner, Gurdaspur dated 25.09.2023 (Annexure P-3) pointing out the problems which were there on account of the access being blocked by raising encroachments/*Chappar* and the pipe leading to the *Chappar* having been blocked and wall being constructed. In such circumstances, directions were issued on 15.11.2023 by the Coordinate Bench to file a status report as to what steps have been taken by the Gram Panchayat.

3. As per the status report now filed by respondent No.4-BDPO on behalf of respondent Nos.1 to 4, the demarcation of land in question had been done on 04.01.2024 and the said report has been appended as Annexure R-1. It has also been mentioned that respondent No.6 has voluntarily given his affidavit on 22.11.2023 that he has no objection to vacate the area out of the land in question, if the same comes under illegal encroachment after demarcation. The BDPO has, thus, averred in para no.5 as under:-

“That, the demarcation report with regard to illegal encroachment on the panchayat land in question has been received in the office of the deponent and as per the report the Gram Panchayat of Village Mallian through its Sarpanch has started process to file petition under section 7

of the Punjab Village Common Lands (Regulation) Act, 1961 against the illegal encroacher for their eviction from the land in question in the court of District Development and Panchayat Officer, exercising the power of Collector, Gurdaspur. In Case the sarpanch fails to act against illegal encroachers, the appropriate action under Section 200 of the Punjab Panchayati Raj Act 1994 would be initiated against the sarpanch by the deponent.”

4. Keeping in view the above, we are of the considered opinion that the State is taking steps as such to look into the issue to take it to its logical end by considering all objections, if any, from persons who have been in illegal possession, as has been averred above also, in accordance with law. Needless to say that it is the bounden duty of the official respondents to ensure a good living condition in the village and to ensure that there is proper sanitation and drainage of water, specially keeping in view the fact that the Apex Court in the case of **Jagpal Singh and others Vs. State of Punjab and others’ 2011(11) RCR (Civil) 912** has already held as under:-

“22. Before parting with this case we give directions to all the State Governments in the country that they should prepare schemes for eviction of illegal/unauthorized occupants of Gram Sabha/Gram Panchayat/Poramboke/Shamlat land and these must be restored to the Gram Sabha/Gram Panchayat for the common use of villagers of the village. For this purpose the Chief Secretaries of all State Governments/Union Territories in India are directed to do the needful, taking the help of other senior officers of the Governments. The said scheme should provide for the speedy eviction of such illegal occupant, after giving him a show cause notice and a brief hearing. Long duration of such illegal occupation or huge expenditure in making constructions thereon or political connections must not be treated as a justification for condoning this illegal act or for regularizing the illegal

possession. Regularization should only be permitted in exceptional cases e.g. where lease has been granted under some Government notification to landless labourers or members of Scheduled Castes/Scheduled Tribes, or where there is already a school, dispensary or other public utility on the land.”

Accordingly, the present petition is disposed of by binding the State to its undertaking.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

05.03.2024
Naveen

(LAPITA BANERJI)
JUDGE

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