



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

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**CWP-16380-1998 (O&M)
Date of Decision: 08.01.2025**

Swaran Singh and another

....Petitioners

Versus

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Sumeet Mahajan, Senior Advocate with
Mr. Saksham Mahajan, Advocate
Mr. D.K.Singhal, Advocate and
Ms. Shruti Singla, Advocate
for the petitioners.

Mr. Maninder Singh, Sr. Deputy Advocate General, Punjab.

Sureshwar Thakur, J. (Oral)

1. Through the instant petition, the petitioner impugns the concurrently drawn verdicts of eviction, which are respectively embodied in Annexure P-4, and, Annexure P-6.
2. The Gram Panchayat, Village Moosapur, Tehsil and District Fatehgarh Sahib through its Sarpanch, instituted a petition under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 against the petitioners herein seeking therein their eviction from the petition land. Through a decision made thereons on 04.09.1998 (Annexure P-4), the Collector concerned, drew a verdict of eviction, whereby he thus ordered for the eviction of the respondent(s)



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therein, from the petition land(s).

3. The petitioners, becoming aggrieved from Annexure P-4, thus preferred a statutory appeal thereagainst, before the learned statutory appellate authority below, and, on the said statutory appeal bearing No.19 of 1998, the appellate authority concerned rather concurred with the decision, as became earlier rendered by the Collector concerned (Annexure P-4).

4. Consequently, the judgment debtors-the petitioners herein becoming aggrieved from the above concurrently made verdicts of eviction against them, and, are led to constitute thereagainst the instant writ petition before this Court.

5. The gravamen of the entire lis is grooved in the tenability or otherwise of the demarcation report, thus revealing that encroachment(s) was made upon the *gair mumkin rasta*, at the instance of the present petitioners.

6. The learned State counsel submits, that the said demarcation report never became tendered into evidence by its author, nor became proven, in accordance with law. He also further appreciably, and, fairly submits that, thus no probative sanctity was to be assigned to the said purported demarcation report, as it remained unproven by its author, through his stepping into the witness box.

7. The imperative norm for validating any demarcation report, is but that, it was required to be evidently proven, that at the site concerned, the revenue officer concerned had carried the apposite Masavi, and, had therefrom, ascertained the fixed points, and, subsequently had relayed them onto the ground. Moreover, the said demarcation report was required to be tendered into evidence, by the revenue officer concerned, who drew it, and thereons, an exhibition mark was required to be also made. The reason for the above being done, arose from therebys able proof rather would become garnered by the demarcation report,



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whereas only upon, its being *per se* placed on record, rather would not mobilize any conclusion, that merely thereby it has some evidentiary sanctity. The said purported demarcation report but evidently garners no evidentiary sanctity, as its author also failed to tender the same into evidence.

8. However, an incisive scrutiny of the record discloses, that irrespective of the fact, that even if the relied upon purported demarcation report, was purportedly prepared in terms of the relevant norm (*supra*), but as a matter of fact, thus for it being read as valid evidence against the encroacher(s) concerned, rather it became not tendered into evidence by the author of the said demarcation report. Since the tendering of the purported demarcation report, by its author, was but imperative, as thereupon alone the ablest proof qua its valid drawings, would thus spur. Consequently, when the said purported demarcation report was not tendered into evidence by its author, therefore its purportedly becoming merely placed on record, does not lead this Court to infer, that thereby evidentiary solemnity, as became assigned thereto, thus was assignable thereto.

9. Be that as it may, in the larger interest of justice, thus for an infirmly drawn purported demarcation report, and, also for the same being not assigned creditworthiness, this Court deems it fit and appropriate to quash the impugned orders (*supra*). Nonetheless, also in the larger interest of justice, since thereby, the encroachment(s), if any, if yet made on the *gair mumkin rasta*, at the instance of the present petitioners, rather would remain undetected, whereupon prejudice may ensue to the Gram Panchayat concerned. Therefore, for also enabling the Collector concerned to, after the remand of the *lis*, to him, thus make a decision afresh thereon. Resultantly, for thus facilitating the makings of a valid fresh decision thereon, it is deemed fit and appropriate, that the decision on



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remand of the *lis*, shall be preceded by the Collector concerned, thus ordering for an able demarcation of the disputed sites, thus being made by an empowered revenue officer concerned.

10. Therefore, the present writ petition is allowed, and, after quashing the impugned orders (*supra*), the *lis* is remanded to the learned Collector concerned, who before making a lawful decision, on the remanded *lis*, shall ensure that an independent demarcation becomes carried by an empowered revenue officer, who before proceeding to the site concerned, shall issue notices to all aggrieved and thereafter in accordance with law, shall make a valid/lawful demarcation of the site concerned.

12. After the drawing of the demarcation report by the officer concerned, he shall forthwith transmit his report to the Collector concerned, who shall ensure that the said report is proven in accordance with law, but after giving an opportunity to the aggrieved therefrom, hence the litigants concerned, rather to make cross examination(s) upon the author of the demarcation report.

13. All the above exercises shall be ensured to be completed within six months from today but after hearing all affected concerned.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

January 08, 2025
Varinder

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No