



CWP-10028-2025

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

CWP-10028-2025

Date of decision: 30.04.2025

Joginder Singh

...Petitioner

V/s

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL**

Present: Mr. Abhinav Jain, Advocate for the petitioner.

SUMEET GOEL, JUDGE

1. The present petition has been filed under Article 226/227 of the Constitution of India, seeking issuance of a writ, particularly in the nature of mandamus, directing respondent Nos.1 to 3 to take necessary and lawful action against respondent No.4 for having illegally handed over possession of the village common land (*Shamlat land*) to respondent Nos.5 and 6, in contravention of law.

2. The case as set up by the petitioner, in the instant petition, is as follows:

2.1. The petitioner has alleged that as per *Jamabandi* (Annexure P-6), the land bearing Khasra Nos.173//8-7 and 174//1-9, falling under Khewat No.409/356, Khatoni No.615, is recorded as common land (*Gair Mumkin*), traditionally being in use by the villagers for collective purposes. It has been further submitted that the site plan (Annexure P-5) prepared by



the Patwari, clearly delineates the said land as *Shamlat land* designated for the community use. However, respondent Nos.5 and 6, residents of village Pandori Araian, Tehsil Dharamkot, District Moga, are attempting to encroach upon the said land for their personal use by erecting a boundary wall, as depicted in the photographs annexed as Annexure P-7 with the instant petition. The respondent No.4, the Gram Panchayat of Village Pandori Araian, through its Sarpanch namely Amandeep Singh, is actively aiding respondent Nos.5 and 6 in this illegal encroachment and is in the process of unlawfully handing over the possession the aforesaid common land. Moreover; respondent No.5, namely, Charanjit Singh had earlier filed a Civil Suit No.CS/292/2020 (Annexure P-4) seeking a permanent injunction against the Gram Panchayat from interfering with his alleged possession, which was dismissed under Order 17 Rule 3 of CPC with costs. However, despite the dismissal of the suit and the nature of land as *Shamlat*, the newly elected Panchayat, under the leadership of current Sarpanch, is facilitating the unauthorized possession of the land by respondent Nos.5 and 6. Thereafter, the petitioner had made several representations (Annexures P-1 to P-3) to various authorities, including the concerned BDPO, Tehsildar, Deputy Commissioner, Commissioner and the Panchayat Minister, Punjab, but no action has been taken till date. The photographs (Annexure P-7) and media reports (Annexure P-8) further corroborate that construction activity is underway, aimed at securing illegal possession over the common land.

2.2. As per the averments contained in the instant petition, the land in question is vital to the village community and is used for public purposes, including waste disposal and, therefore, cannot be alienated or encroached upon for private use. However, the action of the newly elected Gram

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Panchayat is wholly arbitrary, illegal and contrary to the dismissal of the earlier civil suit. It is further submitted that the petitioner moved a representation (copy whereof has been appended as Annexure P-2 with the instant petition) to respondent No.3, but no action has been taken which necessitated the petitioner to approach this Court.

3. Learned counsel for the petitioner, at this stage, limits his prayer and submits that the petitioner would be satisfied if a direction is issued to respondent No.2 to consider and take a conscious decision on the representation (Annexure P-2) made by the petitioner in a time bound manner.

4. Notice of motion, at this stage, to official respondents only.

5. On the strength of the advance notice, Mr. Saurav Khurana, Additional A.G. Punjab, accepts notice on behalf of the said official respondents i.e. respondent Nos.1 to 3. He submits he has no objection in case the limited prayer made by the learned counsel for the petitioner, at this stage, is accepted.

6. We have heard learned counsel for the rival parties and have perused the paper-book with their assistance.

7. Keeping in view the entirety of facts and circumstances of the case & without going into merits thereof, the instant petition is disposed of with a direction to the Deputy Commissioner, Moga, (respondent No.2 herein) to look into the representation (Annexure P-2) moved by the petitioner; objectively consider the grievance(s) raised in the said representation & take ratiocinated decision thereupon after affording opportunity of hearing to petitioner, in accordance with law, within a period of two months from today. Such decision be communicated to the petitioner



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within fifteen days of it being taken. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

(SHEEL NAGU)
CHIEF JUSTICE

April 30, 2025
Ajay

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