

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-11422-2021 (O/M)

Date of decision : 05.09.2025

Prem Pal and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Vikram Singh, Ms. Parul Panchal, Mr. Ishnoor Singh,  
Ms. Vanshika Singh, Advocates  
for the petitioners.

Mr. Abhimanyu Antil, DAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Prayer in the instant civil writ petition filed under Articles 226/227 of Constitution of India is for issuance of a writ in the nature of mandamus for directing respondents to construct the Rajwaha, owned by Irrigation Department in Khasra No. 46, 47 and 48, at its original position and not on the land of the petitioners/land owners.

2. On 01.07.2021, following order was passed :-

*“ It is submitted that while lining the existing distributary, the Irrigation Department has encroached upon the land of the petitioners. This is evident from demarcation report (Annexure P-2) as well as the site plan annexed therewith copy of which is Annexure P-3. Thereafter, representation dated 22.04.2021 (Annexure P-6) has been submitted followed by legal notice dated 26.06.2021 (Annexure P-7), however, the encroachment still continues.*

*Notice of motion.*

*Notice re: stay as well.*

*Mr. R.K.S. Brar, Addl. A.G., Haryana accepts notice and waives service. He seeks time to get instructions.*

*Meanwhile, till the next date of hearing, the lining work may continue but the same shall not be carried out in the area of alleged encroachment.*

*Adjourned to 12.07.2021.”*

3. It appears that during the pendency of the proceedings before this Court, it was highlighted before this Court that there was some dispute as regards Khasra No. 23 is concerned, accordingly, on 10.01.2024, following order was passed :-

*“ Mr. Rahul Chillar, SDO, Irrigation Department, Jind is present in person in Court today. He has filed a document signed by the Tehsildar, Alewa dated 22.12.2023 today in the Court and the same is taken on record.*

*It has been submitted by learned counsel for the State that the demarcation as directed by this Court has been done but the dispute arose regarding Killa No. 23 of which the demarcation could not be conducted because the measurement of this Killa is not matched with the revenue record. He submits that necessary correction required to be done as per Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (hereinafter referred to as ‘the Act’) and the power for the same lies with the concerned Divisional Commissioner. He submits that the Irrigation Department does not have the power under Section 42 of the Act.*

*On request made by learned counsel for the petitioners as well as the State, the Commissioner, Hisar is ordered to be impleaded as respondent No.4 in the present petition.*

*Amended memo of parties be filed by learned counsel for the petitioners during the course of the day.*

*In view of the above position, the petitioners would file*

*an appropriate application before respondent No. 4 for correction as suggested by learned State counsel within a period of one week from today.*

*On receipt of the same, respondent No. 4 i.e. the Divisional Commissioner, Hisar would take further necessary action thereon and file his response before this Court on the next date of hearing. A copy of the same would also be provided to the Irrigation Department.*

*To come up on 20.02.2024.”*

4. Today, learned counsel for petitioners has pointed out that in pursuance to order dated 10.01.2024, passed by this Court, a petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (in short '1948 Act') was filed before the competent authority, who has passed order dated 28.11.2024, which is already placed on the file.

5. Learned counsel for petitioners submits that now necessary changes in the field book and masavi have already been carried out and the petition can be disposed of by directing the authorities to demarcate the property from where construction of Rajwaha is to be carried out. He further submits that in case the petitioners are found to be in possession of any khasra number, which is not owned by them, they would remove their possession forthwith and similarly if the Government authorities are found in possession of any area, which may be owned by the petitioners or any other land owner, then they shall also remove their possession and construct the Rajwaha at the correct place/khasra number, owned by the department.

6. Learned State counsel has not opposed the aforesaid course being adopted.

7. Keeping in view the aforesaid stand taken by respective parties, this petition is disposed of with a direction to revenue authorities to carry out the demarcation of the area, from which the Rajwaha is to be constructed i.e. Khasra No. 46, 47 and 48. In case if during the demarcation, any of the parties is found to be in possession of the area beyond their entitlement, then the same shall be removed and the construction of Rajwaha be completed. Let the aforesaid exercise be carried out within four months from today.

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

(HARSH BUNGER)  
JUDGE

05.09.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No