

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

CWP-17438-2022

Date of Decision: December 21, 2022

UDEY SINGH

..... Petitioner

Versus

STATE OF HARYANA AND OTHERS

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. Nonish Kumar, Advocate for the petitioner.

Mr. Raman Sharma, Addl.AG, Haryana.

Mr. Satish Chaudhary, Advocate for respondent No. 5.

LISA GILL, J.

Prayer in this writ petition is for removal of illegal encroachment on panchayat land.

Contention on behalf of the petitioner is that despite order of ejectment dated 03.07.2009 being passed by the competent authority for ejectment of respondents No. 6 to 11, which has attained finality, no steps whatsoever have been taken by the authorities for eviction of illegal occupants.

Notice of motion was issued in this writ petition on 08.08.2022 while noting the said contentions on behalf of the petitioner. Learned counsel for the State was directed to seek instructions in this regard and file status report within four weeks thereafter. However, status report was not

filed and it was submitted by learned counsel for respondent No. 5 on 15.09.2022 that notice had been issued to the persons, who were in illegal occupation of Gram Panchayat land and Resolution dated 18.08.2022 was passed by the Gram Panchayat, wherein police help was sought for removal of unauthorized encroachment. It was further submitted on behalf of respondent No. 5 that needful would be done within the next fifteen (15) days subject to police help being provided by the State.

Writ petition was adjourned, at request of learned counsel for the respondents with a direction that status report to be filed before the adjourned date i.e. 27.10.2022.

Learned counsel for the State, on 27.10.2022, sought more time to do the needful on the ground that necessary action could not be taken due to ongoing Panchayat Elections. This matter was yet again adjourned at request of learned counsel for the State, with a direction that status report in terms of earlier orders be filed before the next date of hearing, failing which respondent No. 2 should remain present in Court on the next date i.e. 19.12.2022.

Status report was again not filed and neither did respondent No. 2 come present. The sole explanation offered by learned counsel for the State was that necessary action could not be taken due to ongoing Panchayat Elections. The matter was again adjourned to 21.12.2022, with a direction to respondent No. 2 to remain present in Court.

Mr. Sushil Sarwan, IAS, Deputy Commissioner, Panipat in compliance of the said order is present in Court.

Status report by way of his affidavit dated 20.12.2022 with copy thereof to learned counsel for the petitioner, filed in Court today, is taken on record subject to just exceptions.

Respondent No. 2 submits that somehow order dated 27.10.2022 was not brought to his notice and that he alongwith other officials became involved in the process of Panchayat Elections, pursuant to notification dated 07.10.2022. Order dated 19.12.2022, it is submitted, was communicated telephonically by learned counsel for respondent No. 5 at the office of respondent No. 4 and the same was brought to his notice by respondent No. 4 on 19.12.2022 in the post lunch hours.

It is further stated that respondent No. 2 immediately thereafter called BDPO, Madlauda as well as Naib Tehsildar, Madlauda alongwith the concerned staff. It was brought to his notice that application duly signed by the present petitioner and other villagers was received in the office of respondent No. 4 on 06.06.2022 with a request to carry out fresh demarcation of the land in question. Ejectment order dated 03.07.2019, it is stated, was passed on the basis of demarcation report dated 25.03.2011. Fresh demarcation was carried out on 04.12.2022 by the office of Naib Tehsildar Madlauda and notice dated 15.12.2022 was served upon the persons found to be in illegal encroachment. BDPO, Madlauda and Naib Tehsildar, Madlauda were directed to visit the village and to intimate the status of the land in question. Said officers alongwith the relevant record visited village Kalkha, where the present petitioner as well as other villagers were present alongwith newly elected Sarpanch. It was stated by the petitioner and said villagers that they were not satisfied with the

demarcation, which had been carried out on 04.12.2022 with the DGPS machine as it was not matching with some demarcation carried out on 21.09.2012 by the Gram Panchayat. Petitioner, it is stated, sought demarcation to be carried out by measuring tape/*Jareeb*, which is neither feasible nor logical. Copy of demarcation report dated 21.09.2012 was not provided either by the present petitioner or the villagers. Furthermore, such demarcation report dated 21.09.2012, it is stated, is not even attached with the present petition. It is submitted that the petitioner himself is taking vacillating stands and seeks removal of encroachment on the basis of demarcation report dated 21.09.2012, which is not on record and neither has been supplied. Moreover, ejectment order dated 03.07.2019 was passed on the basis of demarcation report dated 25.03.2011. Police help as sought, it is submitted, was immediately ordered on 19.12.2022. Furthermore, unconditional apology has been tendered for non-submission of status report in compliance of earlier orders passed by this Court and for non-appearance on 19.12.2022 while submitting that the same was not intentional or willful in any manner and has occurred due to circumstances as enumerated in affidavit dated 20.12.2022. It is further submitted that strict instructions have been issued to the concerned officials to take necessary steps to ensure due compliance of orders passed by this Court well within the prescribed/stipulated time.

Learned counsel for the petitioner, at this stage, on instructions, submits that petitioner has no objection to removal of illegal encroachment in terms of order dated 03.07.2019, which has been passed on the basis of demarcation report dated 25.03.2011.

Respondent No. 2 – Deputy Commissioner, Panipat, present in Court assures that necessary action for removal of illegal encroachment shall be taken within the next four weeks. Explanation offered by respondent No. 2 is accepted and in view of the assurance in respect to removal of illegal encroachment as above, no further orders are called for.

Writ petition is disposed of, accordingly.

However, in case, needful is not done, liberty is afforded to the petitioner to move an appropriate application in this writ petition.

(LISA GILL)
JUDGE

December 21, 2022
rts

(RITU TAGORE)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No