



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

122

CWP-22905-2024

Date of Decision: 20.02.2025

Bhagi Rath Sharma 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. Radhey Shayma Sharma, Advocate, for the petitioners.

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

SURESHWAR THAKUR, J. (ORAL)

1. The present petitioners seek the passing of a *mandamus* upon the co-respondent Nos.1 to 5, to the extent, that the proceedings be undertaken for removing the encroachment(s), as allegedly made over the *gair mumkin rasta*, thus, by co-respondent Nos.6 to 12.

2. Though learned counsel for the petitioners submits, that since under Section 7 of the Punjab Village Commons Lands (Regulation) Act, 1961 (hereinafter referred to as 'PVCL Act'), there is no empowerment in any private individual, as are the present petitioners, to invoke the thereunders enabled statutory remedy. However, he submits that though the thereunder enabled remedy, is endowed upon either the BDPO concerned or upon the Sarpanch of the Gram Panchayat concerned. Therefore, he submits that despite the present petitioners making representations, Annexures P-6 and P-7, respectively, to the Deputy Commissioner, Fazilka and to the Sub



Divisional Magistrate, Abohar, but no further directions have been passed upon the BDPO concerned, to ensure the undertakings of proceedings under Section 7 of the PVCL Act.

3. It is in the wake of the above lack of actions at the instance of the Deputy Commissioner, Fazilka and at the instance of Sub Divisional Magistrate, Abohar, against the encroachers upon the *gair mumkin* passage, that has led the present petitioners to invoke the writ jurisdiction of this Court.

4. Though, on the previous date of hearing, order(s) was passed by this Court, upon, a submission made before this Court by learned State counsel, that notices have been issued for removal of encroachments over the *sare-aam rasta*, but it was also then intimated to this Court, that the said encroachments are minor in nature.

5. Consequently, further status report was asked to be filed today before this Court by the official concerned. The said status report has not been filed.

6. Nonetheless, the official respondents concerned are directed to forthwith ensure that a valid demarcation of the disputed sites becomes conducted by the empowered revenue official concerned. In case after the making of such demarcations over the disputed sites, it is revealed, that over the *sare-aam rasta*, some encroachments have been made at the instance of the private respondents, thereupons, a *mandamus* is passed upon the Sarpanch of the Gram Panchayat, concerned or upon the BDPO concerned, to forthwith institute a petition under Section 7 of the PVCL Act, before the Collector concerned.



7. If such petitions become instituted, thereupon the same shall be lawfully decided, preferably within a period of six months from the date of the apposite preferment, besides after ensuring that complete adherence is made to the principles of natural justice.
8. Disposed of accordingly.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

February 20, 2025
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No