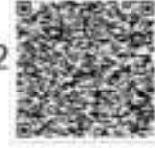


2026.PHHC.071122



142

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

**CWP-14067-2026 (O&M)
Date of Decision: 05.05.2026**

Dalip

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Binat Sharma, Advocate
for the petitioner.

Mr. Rajiv Malhotra, DAG, Haryana.

HARSH BUNGER J. (ORAL)

Petition herein is, *inter alia*, seeking a writ in the nature of Certiorari for setting aside order dated 15.01.2020 (Annexure P-2) passed by the learned Collector, Sub Division, Kanina, as well as the notices dated 24.12.2025 and 04.05.2026 (Annexures P-4, P-5 and P-5A), issued by the Municipal Committee, Kanina.

2. Briefly, the dispute in the instant case pertains to the land comprised in Khasra No.859, measuring 1 Kanal-14 Marla (as per *Jamabandi* for the year 2013-14), situated in Village Kanina, District Mahendergarh.

2.1 In the revenue record, the aforesaid land is recorded as 'Gair Mumkin Rasta'.

2.2 It transpires that earlier an eviction petition under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, was filed with respect to the aforesaid land comprised in Khasra No.859, wherein the father and brother of the petitioner were impleaded as party respondents. The said eviction petition came to be allowed vide order dated 15.01.2020 (Annexure P-2) passed by the learned Collector, Sub Division, Kanina. Relevant extract thereof reads as under:-

“ After hearing both parties and examining the documents available on file, as per demarcation report dated 12.10.2017: Over **Khasra No.859**, on the eastern side 92 feet, western side 85 feet, southern side 16-6 feet, northern side 16-6 feet, a pucca house and boundary wall has been constructed by **Shri Hari Singh**, measuring **1460 square feet**. Over **Khasra No.209**, on the eastern side 8-6 feet, western side 7-10 feet, southern side 23-6 feet, northern side 28-6 feet, encroachment measuring **228 square feet** has been made by **Shri Vinod etc**. Further, on the eastern side 8-10 feet, western side 8-02 feet, southern side 53-6 feet, northern side 51-6 feet, encroachment measuring **446 square feet** has been made by **Smt. Manju Devi wife of Shri Harkans**. Further, over **Khasra No.209/2/2**, on the eastern side 8-9 feet, western side 8-0 feet, southern side 39-6 feet, northern side 39-6 feet, encroachment measuring **349 square feet** has been made by **Smt. Sunita wife of Shri Inderjit** by constructing wall. Further, on the eastern side 9-1 feet, western side 9-6 feet, southern side 55-8 feet, northern side 39-3 feet, encroachment measuring **351 square feet** has been made by **Smt. Santosh wife of Shri Rajkumar** by constructing boundary wall. Apart from this Om Parkash in total, encroachment over **764 square feet** has been made.

As per demarcation report dated 12.10.2017, the above-mentioned encroachers are liable to be removed from the encroached land. Accordingly, order is passed to remove the encroachments.

Order pronounced today on 15.01.2020 in open court.
Compliance report be placed on record after necessary action.”

2.3 Apparently, the aforesaid eviction order dated 15.01.2020 (Annexure P-2) was neither challenged by the petitioner’s father nor by his brother, and, to that extent, the said order has attained finality.

3. Now, the petitioner has filed the present writ petition before this Court, challenging the eviction order dated 15.01.2020 (Annexure P-2) on the plea that the petitioner is owner-in-possession of the site in question.

4. Learned counsel for the petitioner submits that on the date of passing of the eviction order dated 15.01.2020 (Annexure P-2), the petitioner was a minor and, therefore, he was not in a position to challenge the said order any further.

4.1 Learned counsel contends that on an earlier occasion, the learned Sub Divisional Magistrate, Kanina, had passed an order dated 31.05.2019 (Annexure P-1) in respect of the aforesaid Khasra No.859 and, therefore, the eviction order dated 15.01.2020 (Annexure P-2) could not have been passed thereafter.

4.2 Learned counsel for the petitioner further submits that the house in question had fallen to the share of the petitioner in terms of a compromise arrived at before the learned Civil Court vide Decree dated 27.05.2015 (Annexure P-3); accordingly, the notices dated 24.12.2025 and 04.05.2026 (Annexures P-4, P-5 and P-5A), issued by the Municipal Committee, Kanina, are unsustainable in the eyes of law and are liable to be set aside.

5. I have heard learned counsel for the respective parties and perused the paper book with their able assistance.

6. Evidently, Khasra No.859 is recorded as '*Gair Mumkin Rasta*' in the revenue records and an eviction order dated 15.01.2020 (Annexure P-2) already stands passed against the petitioner's father and brother. Apparently, the present writ petition has been filed by the petitioner after a lapse of more than six years from the date of passing of the eviction order (Annexure P-2) and is clearly barred by delay and laches.

7. Even otherwise, the eviction order dated 15.01.2020 (Annexure P-2) was amenable to appeal under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971; however, no such recourse was taken by the petitioner.

8. It is borne out from the petitioner's representation dated 26.04.2026 (Annexure P-8) that his Date of Birth is 11.07.2001 and, therefore, the plea that the petitioner was a minor on the date of passing of the eviction order dated 15.01.2020 (Annexure P-2), cannot be accepted.

9. That apart, as far as the order dated 31.05.2019 (Annexure P-1) is concerned, the same was passed under Section 133 of the Code of Criminal Procedure for removal of nuisance from the site in question. It appears that at the time when the site comprised in Khasra No.859 was inspected, the learned Sub Divisional Magistrate, Kanina, did not find any nuisance at the spot and, accordingly, dismissed the application. However, the said order nowhere reflects that the petitioner had acquired any ownership rights in Khasra No.859, which is recorded in the ownership of the Municipal Committee, Kanina, and further depicted as '*Gair Mumkin Rasta*' in the revenue records.

10. Even the compromise reflected in the Decree dated 27.05.2015 (Annexure P-3) does not advance the case of the petitioner, as the said compromise pertains to the land comprised in Khasra No.66, measuring 383 Kanal-18 Marla.

11. Learned counsel for the petitioner has failed to refer to any material/evidence which may even remotely suggest any right, title or interest of the petitioner in respect of Khasra No.859.

12. Keeping in view the aforesaid discussion and upon a perusal of the paper book, it is apparent that the petitioner has filed the present writ petition with an oblique motive to prolong his unauthorized possession over Khasra No.859, which is otherwise recorded as '*Gair Mumkin Rasta*' in the revenue records. However, such unauthorized possession cannot be permitted to continue.

13. Accordingly, the present writ petition is dismissed. The petitioner is directed to remove his possession from Khasra No.859 forthwith, and in any case within a period of four weeks from today, failing which the Municipal Committee, Kanina, shall be at liberty to take possession of the said land, even by resorting to police assistance (if required).

14. All the pending application(s), if any, shall also stand closed.

05.05.2026
Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No