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Court : Punjab and Haryana

Decided On : Aug-12-2013

Appellant : “counsel for the Petitioner Submits That Land Belonging to the Gram

Respondent : Bhajan KaurPetitioner

Judgement :

CWP No.2089 of 2013 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH ***** CWP No.2089 of 2013 Date of decision :

12. 8.2013 Bhajan KaurPetitioner versus State of Punjab and othersRespondents CORAM: Hon'ble Mr.Justice Jasbir Singh Hon'ble Mr.Justice G.S.Sandhwalia Present:- Ms.H.K.Aurora, Advocate, for the petitioner Mr.K.K.

Gupta, Addl.

AG, Punjab Mr.Sanjeev Kumar Bawa, Advocate, for respondent No.3 --- Jasbir Singh, J.

(Oral) The petitioner has filed this writ petition to lay challenge to an order dated 23.11.2010 (P-1) ordering her ejection from the land, allegedly falling in khaSr.number 24 (5 marlas).owned by the Gram Panahcyat.

She has also laid further challenge to an order dated 21.9.2012 vide which her appeal was dismissed.

In the year 2008, the Gram Panchayat got the land demarcated, falling in above said khaSr.number and as per report, the petitioner was found in possession of 5 marlas of land.

Her possession was un-authorized.

On the basis of that demarcation report, in the year 2009 the Gram Panchayat filed an application under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (in short 'the Act').for her ejection.

By taking note of the demarcation report, her ejection was ordered.

She also lost in appeal.

When notice of motion was issued on 31.1.2013, following Kumar Ashwani 2013.08.27 14:30 I attest to the accuracy and integrity of this document CWP No.2089 of 2013 -2- contention of counsel for the petitioners was noticed by this Court :- Counsel for the petitioner submits that land belonging to the Gram Panchayat is situated in KhaSr.No.24 whereas, the petitioner's house is situated in KhaSr.No.62.

The demarcation report relied by the Collector, was prepared prior to institution of proceedings under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 and even otherwise, as the petitioner was not served in accordance with law, the impugned orders are illegal and void.

Before us also, it is specifically stated that house of the petitioner is situated in KhaSr.No.62 and not in KhaSr.No.24, as alleged by the Gram Panchayat.

It is further stated that the demarcation was not done properly and it was without any notice to the petitioner.

Taking not of above said circumstances, we dispose of this writ petition and direct the District Development and Panchayat Officer (DD & PO).Jalandhar to get the

land demarcated at the spot, in presence of representatives of the Gram Panchayat and the petitioner and if on demarcation, it is found that the petitioner has un-authorisedly encroached upon KhaSr.No.24, she be immediately ejected from the land in dispute, whereas to the contrary, if it is found that her house is situated in KhaSr.No.62, no action be taken against her.

The DD & PO shall take action within one month from the date of receipt of a copy of this order.

(Jasbir Singh) Judge (G.S.Sandhawalia) Judge 12.8.2013 Ashwani Kumar
Ashwani 2013.08.27 14:30 I attest to the accuracy and integrity of this document

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