



Sr. No.132

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

CWP-23798 of 2024 (O&M)

Reserved on 01.09.2025

Pronounced on :15.09.2025

Shish Ram and others ...Petitioners
Versus
State of Haryana ...Respondent

**CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI**

Present : Mr. Ketan Antil, Advocate,
for the petitioners.

Mr. Ankur Mittal, Additional A.G., Haryana and
Mr. Saurabh Mago, DAG, Haryana.

LAPITA BANERJI, J.

Challenge in the present petition, filed under Articles 226/227 of the Constitution of India, is to the order dated February 23, 2012, (Annexure P-1), passed by the Assistant Collector First Class, Narnaul, (for short 'AC'); order dated September 10, 2014, passed by the Collector, District Mahendragarh at Narnaul (Annexure P-3) as well as the order dated September 15, 2023, passed by the Commissioner, Gurugram (Annexure P-5).

2. By the aforesaid impugned orders, the application filed by the Gram Panchayat (for short 'G.P.') under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (hereinafter referred to as 'the 1961 Act') was allowed by the AC, which was affirmed by the Collector and reaffirmed by the Commissioner.

3. Brief facts of the case are as follows:-



- i) The disputed land admeasuring about 1 kanal 15 marlas is situated in Khewat No.40 Min, Khatoni No.157, Khasra No.120/2 Village Bakhrija, Tehsil Narnaul.
- ii) The said land is a part and parcel of the total land admeasuring about 12 kanals 9 marlas situated in the aforesaid khatoni number and recorded as '*Gair Mumkin Playground*' which is shown to be owned by the GP in the Jamabandi for the year 2002-2003.
- iii) The G.P. instituted eviction proceedings under Section 7 of the 1961 Act but the petitioners who were defendants No.1 to 4 in the afore proceedings, did not put in appearance. Consequently, the order dated February 23, 2012, was passed by the AC ordering the eviction of the petitioners from the disputed land.
- iv) The petitioners filed an appeal before the Collector, Narnaul wherein it was contended that summons had not been served upon them. The peon who was to effect service had given a false report, with regard to the pasting of the summons on the wall of the construction, owned/occupied by the petitioners. Therefore, the petitioners contended in the appeal, that the ejection order was passed *ex parte* without any opportunity of hearing being granted to the petitioners, in breach of principles of natural justice.
- v) The Collector after hearing the parties held that as per the demarcation report dated November 25, 2007 (which remained unchallenged), the illegal occupation of the petitioners' house had already been recorded and no document was brought on record by the petitioners to prove their ownership. Accordingly, their appeal was dismissed.
- vi) In the revision petition filed by the petitioners, the Commissioner-respondent No.2 observed that in the revenue records the disputed



land was recorded as “*Gair Mumkin Khel Kood Maidan*’ and the demarcation report clearly showed that the petitioners had encroached over the Panchayat land by constructing a *pukhta* wall and a house.

vii) Furthermore, it was specifically recorded in the demarcation report that the same was done in the presence of the petitioners but they had refused to sign the attendance sheet. Since the petitioners were not able to adduce any evidence to show either their ownership or lawful possession over the land in dispute, the revision petition was dismissed by the Commissioner.

4. Challenging the aforesaid impugned orders dated 23.02.2012, 10.09.2014 and 15.09.2023, the petitioners filed the instant petition under Articles 226/227 of the Constitution of India.

5. Learned counsel appearing on behalf of the petitioners submits that no notice was served upon the petitioners and therefore the impugned order dated February 23, 2012 passed by the AC was in breach of the principles of natural justice and is liable to be set aside on that ground alone. Furthermore, the demarcation was not done in the presence of the petitioners and even if it was assumed that the petitioners were present at the time of the demarcation being conducted, still the petitioners admittedly being in occupation of disputed land could not be evicted without following the due procedure of law. The petitioners are only in occupation of approximately 1 kanal 15 marlas of land out of total land admeasuring 12 kanals 9 marlas and should be allowed to pay for the disputed land in question and their possession over the same should be regularized, in the interest of justice.

6. Issue notice of motion to the respondents.

7. Mr. Saurabh Mago, DAG, Haryana accepts notice on behalf of respondents No.1 to 4 and submits that the petitioners are in unauthorized



possession of the Panchayat land and that the order dated 23.02.2012 passed under Section 7 of the 1961 Act by the AC does not suffer from any infirmity and the orders dated 10.09.2014 and 15.09.2023 upholding the order of the AC have also been rightly passed. The concurrent findings of the authorities below should not be interfered with as the impugned orders are neither arbitrary nor perverse.

8. This Court has heard the learned counsel for the parties and perused the material on record.

9. The petitioners, despite being present during the demarcation in the year 2007, neither signed the attendance sheet nor challenged the report. Reliance on the Resolution of the Gram Panchayat dated August 02, 2008 and the recommendation/no objection of the District Elementary Education Officer, Narnaul dated November 16, 2009 do not aid the case of the petitioners as both the recommendations were made prior to the decision of the respondent-Gram Panchayat to initiate proceedings under Section 7 of the 1961 Act on October 18, 2010. Finally the said proceedings were decided vide the impugned order dated February 23, 2012 passed by the AC.

10. This Court cannot agree with the submissions made *qua* the non-service of notice upon the petitioners in course of Section 7 proceedings as the service of same has been clearly recorded in the impugned order. From the report produced before the Court of the AC, it appears that when the Village Chowkidar visited the house of the petitioners they were not present and therefore the summons were pasted on the wall of their residence. Service upon the defendants/respondents by way of pasting of summons on a conspicuous part of the building when the defendants/respondents are not available to receive the same, is an accepted mode of service, in law.

11. Therefore, this Court finds no force in the argument that the proceedings under Section 7 of the 1961 Act were decided against the



petitioners in breach of the principles of natural justice and without service of notice especially when none of the petitioners could produce any evidence to show that either they were the owners of the disputed property or they were in authorized possession of the same as have been concurrently held by the authorities below.

12. In the light of the discussion made hereinabove, the petitioners cannot be permitted to encroach upon the Gram Panchayat's land which is reserved as a playground '*Gair Mumkin Khel Kood Maidan*'.

13. The petitioners knowingly have been in unauthorized possession of the same at least since the time demarcation was done in 2007 and made no attempt to regularize their unauthorized possession by payment to the G.P. Therefore, after 18 years such a prayer of the petitioner cannot be considered, in the absence of any pleaded policy. This Court finds no merit at all in the present petition and the same is hereby dismissed. On humanitarian grounds, the petitioners are allowed to vacate the suit land within two months from the date of this order upon payment of fine as assessed by the learned AC vide order dated February 23, 2012.

14. With the directions aforesaid CWP-23798 of 2024 is disposed of.

(DEEPAK SIBAL)
JUDGE

(LAPITA BANERJI)
JUDGE

SEPTEMBER 15, 2025
vandana

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No