



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

(127)

CWP-11234-2024(O&M)

Date of Decision: 11.02.2025

Tirath Ram and others

....Petitioners

Versus

State of Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. B.S. Seemar, Advocate,
Mr. Naresh, Advocate and
Mr. Sumit, Advocate for the petitioners.

Mr. Ankur Mittal, Additional A.G. Haryana with
Ms. Svaneel Jaswal, Additional A.G. Haryana
Mr. P.P. Chahar, Sr. DAG, Haryana,
Mr. Saurabh Mago, DAG, Haryana,
Mr. Gaurav Bansal, DAG, Haryana and
Mr. Karan Jindal, AAG, Haryana.

Mr. Gopal Sharma, Advocate for respondent No.6.

Mr. Rakesh Nehra, Senior Advocate with
Mr. Viren Sibal, Advocate,
Mr. Chirag Kundu, Advocate,
Mr. Harshit Singla, Advocate for respondent No.7.

SURESHWAR THAKUR, J. (Oral)

1. The instant writ petition becomes directed against the concurrently made verdicts of eviction by the statutory authorities below. The said verdicts are respectively enclosed with the petition as Annexure P-10, as Annexure P-11 and as Annexure P-12. The encroachments made at the instance of the present petitioners are on the *gair mumkin rasta* which is occurring within the *abadi deh*. The khasra number ascribed to the *gair mumkin rasta* occurring within the *abadi deh* is khasra No.447.



2. Though, this Court does not find any infirmity ingraining the concurrently rendered verdicts of eviction supra, as they are based upon a well made demarcation of the disputed *rasta*. However, the learned counsel appearing for the petitioners submits, that he has instructions to state that the prayer relating to the quashing and setting aside of the impugned verdict supra be permitted to be abandoned.

3. The above prayer is accepted and accordingly after upholding the impugned verdicts of eviction, the writ petition is dismissed.

4. However lastly, learned counsel for the petitioners states, that yet in terms of sub-Rule (4) of Rule 12 of the Haryana Village Common Lands (Regulation) Rules, 1964, rule whereof becomes extracted hereinafter, whereby, there is permissibility endowed *vis-a-vis* the gram panchayat concerned to, through passing a resolution, whereto approval may be granted by the competent authority, thus make proposal therein for alienation of encroached upon non-cultivable land which occurs in *abadi deh* land, to the encroachers concerned, that a consideration order be recorded:-

“(4) The Gram Panchayat may with the prior approval of the State Government, sell its non-cultivable land in *shamilat deh* to the inhabitants of the village who have constructed their houses on or before the 31st March, 2000, not resulting in any obstruction to the traffic and passers-by, along with open space upto 25% of the constructed area or an appurtenant area upto a maximum of 200 square yards at not less than collector rate, floor rate or market rate, whichever is higher.

5. However, though there is a restriction against the said alienation being made to the unauthorised occupants over *shamilat deh rasta*, which



exist in the revenue estate concerned, but the said restriction appears to somehow get relaxed in the wake of there yet existing speakings in the above extracted rule, to the extent that, if the unauthorized construction(s) as, made upon any *gair mumkin rasta* in any revenue estate, does not result in any obstruction to the traffic and to passersby, thereupons, the resolution of gram panchayat, whereto approval may be granted, thus, for alienating the encroached upon portions over the *gair mumkin rasta* to the encroachers, rather may be a well made resolution/approval.

6. However, at this stage, there is no material on record suggestive, of the fact, that the present encroachments as made upon the *gair mumkin rasta*, will not result in any obstruction to the traffic and passersby. Therefore, in the wake of absence of the evidence supra, this Court directs the *gram panchayat* concerned, to consider to pass a resolution to the effect, that in case the encroachments made on the said *rasta* have not resulted in any obstruction to the traffic and passersby, to, thereby propose, that approval to the said passed resolution, be granted by the competent authority. The said be done most expeditiously, till then parties to maintain status quo.

7. Disposed of accordingly.

8. Pending application, if any, also stands disposed of.

(SURESHWAR THAKUR)
JUDGE

February 11, 2025

d.gulati

(VIKAS SURI)
JUDGE

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