

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

Civil Writ Petition No.13077 of 2014

Date of decision: **09**.02.2015

Smt. Neelam Bhosle wife of Shri Rajneesh Bhosle, resident of
House No.253, Wadhava Nagar, Baltana, Punjab.

... Petitioner

versus

State of Haryana through its Secretary to Home Department, Civil
Secretariat Haryana, Chandigarh, and others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Bimal Maini, Advocate,
for the petitioner.

Mr. Gourav Goel, AAG, Haryana.

1. Whether reporters of local papers may be allowed to see the judgment ? **Yes.**
2. To be referred to the reporters or not ? **Yes.**
3. Whether the judgment should be reported in the digest ? **Yes.**

K.Kannan, J.

1. The writ petition is for a direction in the nature of mandamus to direct the Deputy Commissioner of Police and SHO, Pinjore, arrayed respondents 2 and 3 to take appropriate action in FIR No.130, dated 19.06.2014 and to demarcate the land and plot of the petitioner situate within the municipal limits.

2. The petition is rested on a plea that one Sushil Garg and others are committing illegal acts of trespass and they are attempting

to remove the boundary wall and a main gate fixed at the property. The petitioner would also make reference to some private persons, namely, Seema Rani, Baljit Singh and Shalender and others have come upon the property and started abusing and fighting with the husband of the petitioner.

3. On a complaint before the Magistrate at Kalka, it appears that a case has been registered in FIR No.130 for offences under Section 323, 506, 379, 452, 427, 420, 467 and 120-B IPC at Police Station Pinjore, but the investigation is reported to be not proceeding properly. He would, therefore, seek for intervention through the court.

4. The Assistant Commissioner of Police, on notice, has pointed out to the fact through statement that after a complaint was registered on the directions of the Judicial Magistrate, Kalka, the police investigation found that Ramesh Kumar had purchased a plot of land from Sant Ram @ Santu in the year 1991 and later executed a sale deed in favour of Shiv Nand. This was, in turn, sold to one Seema Rani wife of Baljit. The written statement refers to several transactions of sales and the investigation is said to have revealed one Ram Ashra, Nambardar identified one Ramesh Kumar as a culprit who was arrested and produced before the Judicial Magistrate, Panchkula. Arrest warrant is said to have been pending against one Pardeep Kumar but that he was evading arrest.

5. It would seem that the very prayer contained in the petition that the property must be demarcated to identify the petitioner's property is a case of dispute regarding title between adjacent property owners who have purchased various parcels of land under various transactions. All that would be possible for a criminal court to investigate would be the issue of criminal trespass and the complaints regarding the physical altercations that have come about at the property which the petitioner claims as hers. The complaint has been registered only under the supervision of the magistrate and the Judicial Magistrate has wide power to monitor the investigation under Section 156 Cr.P.C. Indeed the reply of the Assistant Commission itself makes reference to a judgment of the Supreme Court in **Sakiri Vasu Versus State of UP-2008(1) RCR (Criminal) 293** referring to the fact that for any defect or lapse in the investigation, it will be possible for the magistrate to order reinvestigation or reopening the investigation.

6. I find under the above narrated circumstances no cause for any intervention in favour of the petitioner. I will give the liberty to the petitioner to secure appropriate redressal before the Jurisdictional Magistrate. As regards the plea that the property must be demarcated and delivered to him, it shall not be the act of the police authority. The attempt to criminalize every civil right is a despicable trend which would require to be arrested. There is

perhaps a theory to rationalize this trend, viz., systemic failures to address civil rights within a reasonable time on account of huge influx cases in court as contributing to resort to public law remedy through writs. If the subordinate courts are burdened, the High Court is overburdened by the sheer number of lakh of cases which are instituted and pending. It becomes essential to wean from the High Court jurisdiction matters that simply cannot be entertained and burdened with. The prayer for demarcation is one such that would require to be jettisoned not because judicial redress is not possible, it is because it is inexigent to convert the High Court to places for resolving petty quarrels and engage in carrying out clerical work like demarcation of properties. The petitioner will work out his remedy in a proper civil court for such demarcation if the denial of legal right to the property persists through persons who have no right to the property.

7. With these observations, the writ petition is disposed of.

(K.KANNAN)
JUDGE

09.02.2015

sanjeev