

CWP No. 16200 of 2014
DECIDED ON: SEPTEMBER 17, 2015

.....PETITIONER

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

Present: Mr. Onkar Singh, Advocate,
for the petitioner.

Mr. Rajesh Bhardwaj, Addl. AG, Punjab.

Mr. C.L. Premmy, Advocate
for respondent No.4.

- 1. Whether Reporters of Local papers may be allowed to see the judgment?***
- 2. To be referred to the Reporters or not?***
- 3. Whether the judgment should be reported in the Digest?***

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Surya Kant, J. (Oral)

The petitioner is aggrieved by the orders dated January 24, 2013 (P-9) and May 29, 2013 (P-10) passed under Section 7 of the Punjab Public Premises and Land Eviction and Recovery Act, 1973 whereby, petitioner was ordered to be evicted from the land measuring 12 kanals situated within the revenue estate of Village Bela Sariana. The finding given by the authorities is that the management of the land vests in the Gram Panchayat and the petitioner is in its

illegal occupation. While holding so, the authorities have placed reliance on Section 42-A of the East Punjab Holding (Consolidation and Prevention of Fragmentation) Act, 1948.

2. When this petition came up for preliminary hearing on August 14, 2014, petitioner claimed that she is a land-less woman and has constructed her dwelling unit on a part of the subject land. We thus, issued notice to the respondents to explore the possibility whether the subject land can be sold to her at a concessional rate, in terms of Government Policy meant for allotment of residential plots to BPL families.

3. Balbir Kaur, Sarpanch of Gram Panchayat has filed her written statement controverting the petitioner's claim. It is stated that the petitioner is neither a Scheduled Caste nor she belongs to land-less family. Her husband owns 35 kanals 18 marlas land in the village, as per report of the halqa Patwari (R4/1) and thus, it is not a case of land-less family to whom the Gram Panchayat land can be sold. .

4. Today, the petitioner has taken the plea that her husband Mian son of Rahim Baksh is a Scheduled Tribe and he is living separately, as he has more than one wife. The petitioner claims that she is living all alone at the site in dispute.

4. Since the above-mentioned plea taken by the petitioner is a seriously disputed question of fact and it is nearly impossible for this Court to effectively resolve the same and there is no reason whatsoever for us to disbelieve the Sarpanch who has supported her plea by appending the relevant record, we deem it appropriate to dispose of this writ petition with liberty to the petitioner to approach the Deputy Commissioner, Hoshiarpur for allotment of a residential plot, as per the Government Policy, if any, provided that (i) petitioner is actually a land-less

woman; (ii) she is living Below Poverty Line; (iii) she has been deserted by her husband; and (iv) there are no means of livelihood with her.

5. We have no reason to doubt that if the petitioner would make out such a case, the authorities would consider her claim sympathetically. The question of interim protection, if any, shall also be considered and decided by the Deputy Commissioner. However, as an interim measure, for 2 weeks petitioner's house shall not be demolished,.

6. Ordered accordingly.

**[SURYA KANT]
JUDGE**

**SEPTEMBER 17, 2015
sham**

**[JASPAL SINGH]
JUDGE**