

**IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH**

Sr. No.: 209

**Civil Writ Petition No.19119 of 2014**

**Date of Decision:** *August 11, 2015*

**Smt. Kamlesh**

..... PETITIONER

*VERSUS*

**Collector, Panipat & others**

..... RESPONDENTS

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**CORAM:**    **HON'BLE MR. JUSTICE SURYA KANT**  
                  **HON'BLE MR. JUSTICE JASPAL SINGH**

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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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**PRESENT:** -    Mr. Wazir Singh, Advocate, for the petitioner.

Ms. Kirti Singh, Deputy Advocate General, Haryana, for  
respondent Nos.1 to 5.

Mr. S.S. Kharb, Advocate, for respondent No.7.

Mr. J.S. Saneta, Advocate, for respondent Nos.8 and 9.

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**Surya Kant, J (Oral)**

1.                The controversy in this case is whether there exists a public  
street in Plot No.421 within the *Abadi Deh* of village Jalmana, Tehsil Bapoli,  
District Panipat?

2. A reference to the photostat copy of *Aks-Shijra* (P-6) may be relevant. While the petitioner/her husband is owner of Plot No.420, the brother of her husband is stated to be owner of Plot No.419. The undisputed public street has been shown in red colour which reaches upto Plot No.419. Land adjoining Plot No.421 is owned by private respondents. A part of that plot shown in blue colour is claimed to be a 'street' by the petitioner, which is alleged to have been encroached upon by the respondents. As against it, respondents have refuted the allegations as according to them, there is no street in Plot No.421.

3. The genesis of the *Lis* is, thus, a disputed question of fact which has been answered by the authorities under the Punjab Village Common Lands (Regulation) Act, 1961 (for short, '1961 Act') against the petitioner but not on merit, rather on technical grounds like *resjudicata* etc. The case of authorities; the Gram Panchayat as well as the private respondents appears to be that the petitioner/her husband were required to have access to their plot via the street (red colour) through Plot No.419 owned by their family but some stairs have been constructed by the brother of petitioner's husband due to which she/her husband started claiming the alternative street shown in blue colour.

4. It can hardly be disputed that if the land shown in blue colour is a public street, the eviction proceedings under the 1961 Act would be maintainable and principle of *resjudicata* cannot be involved in such like summary proceedings. However, if the said land is a private property of respondents, the petitioner/her husband can have no claim to get it converted into a public street.

5. Unfortunately, what has been urged before us is only a question of fact. As suggested by counsel for parties also, we thus dispose of this writ petition with a direction to the Deputy Commissioner, Panipat to constitute a team of revenue officials, to be headed by District Revenue Officer, comprising one Tehsildar/Naib Tehsildar, one Kanungo as well as the Patwari who is well conversant with the record and *Aks-Shijra* of the village, to re-verify the old record, carry out the measurements/demarcation, if need be, and then determine whether the land shown in 'blue colour' in the *Aks-Shijra* (P-6) is a public street or a private property of the respondents. The needful shall be done within six months from the date of receipt of copy of this order.

6. Needless to say that if the land in dispute is found to be the private property of respondents, the orders passed by the authorities shall be taken to have attained finality and no further action need be taken. However, if the land is held to be a 'public street', the Gram Panchayat of the village is directed to take appropriate action in accordance with law and in that event, the private respondents shall also be at liberty to raise their objection(s) which shall be considered in accordance with law.

7. Disposed of.

**(Surya Kant)**  
**Judge**

**(Jaspal Singh)**  
**Judge**

**August 11, 2015**  
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