

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.23301 of 2015
Date of Decision: November 02, 2015

Khem Chand and othersPetitioners

versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.

HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Mahavir Sandhu, Advocate, for the petitioners.

Ms.Kirti Singh, Deputy Advocate General, Haryana.

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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?*

Surya Kant, J. (Oral)

Notice of motion to respondent Nos.1 to 5 only at
this stage.

On our asking, Ms.Kirti Singh, learned Deputy
Advocate General, Haryana, accepts notice on their behalf.

Let seven copies of the writ petition be supplied to
the State counsel during the course of day failing which this
order shall be automatically recalled and the writ petition shall
be deemed to have been dismissed for non-prosecution.

In view of the nature of order which we propose to
pass, it is not necessary to seek any counter-reply from
respondent Nos.1 to 5 or to serve respondent No.6-Gram
Panchayat at this stage as no order prejudicial to their interest

is being passed.

[2] The petitioners are residents of village Atva, Tehsil and District Palwal. They have laid challenge to the Notification dated 08.03.1949 (P-6) issued under Section 3 read with Sections 4 & 5 of the Punjab Land Preservation Act, 1900 (for short, 'the PLPA Act'), prohibiting the non-forestry activities on the lands mentioned in its Schedule including 260 acre land of the petitioners' village. They are also aggrieved by a Public Notice pasted by the Forest Department in June, 2015 prohibiting entry of any private-person on the subject-land and/or to use the same for non-forestry purposes contrary to the directions issued by the Hon'ble Supreme Court.

[3] The petitioners question the above-mentioned Notification/Public Notice, inter-alia, on the grounds that (i) the 1949 Notification was issued for a period of 25 years only which has elapsed and no fresh notification was issued thereafter, hence their lands are not subject to the restrictions or prohibitions prescribed under Sections 4 & 5 of the PLPA Act; (ii) the June-2015 Public Notice is without any authority of law; (iii) the subject-land has not been acquired and still owned by the petitioners and thus the action of the authorities is violative of Article 300-A of the Constitution, and (iv) the petitioners and other residents of the village are actually in cultivating possession of the land from the very beginning as is reflected in the revenue record.

[4] Contrarily, learned State counsel submits that once the land was notified under Section 4 & 5 of the PLPA read with Section 38 of the Indian Forest Act, as is mentioned in the official communications, can be used only for forestry purposes and in the light of the decision of Hon'ble Supreme

Court dated 18.03.2004 and 14.05.2008, it has to be treated as 'forest-land'. She further contends that once the land was declared to be the forest area, the provisions of the Forest (Conservation) Act, 1980 are attracted and such land cannot be used for non-forestry purposes.

[5] Having heard learned counsel for the parties, we find that the issues raised in this petition are similar to those dealt with by this Court in Rakam Singh and others versus State of Haryana and others, 2012 (3) RCR (Civil) 107. Therein also a disputed question of fact as to whether or not the land in question was liable to be treated as 'forest land', did arise and after formation of issues for determination, the petitioners were relegated to the authorities in the Forest Department for determination of those issues.

[6] Following the cited-decision, the instant writ petition is also disposed of granting liberty to the petitioners to submit their claims before the Principal Chief Conservator of Forests, Haryana who may entrust the matter to the Prescribed Authority for determination as to whether or not the petitioners' land is liable to be treated as 'forest land' for the purpose of giving effect to the legislations like the Indian Forest Act and the Forest (Conservation) Act, 1980 and the PLPA Act 1900.

[7] Let an appropriate decision by the Competent Authority be taken within a period of four months from the date of submission of the claim of the petitioners.

[8] Ordered accordingly.

[9] Let a copy of this order be given dasti to Ms.Kirti Singh, learned Deputy Advocate General, Haryana, for information and necessary action.

[10] If the matter is required to be referred to the Government of India for any approval, clarification etc., the same shall also be done within the afore-stated stipulated period.

[SURYA KANT]
JUDGE

November 02, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE