

*IN THE HIGH COURT FOR THE STATES OF PUNJAB
AND HARYANA AT CHANDIGARH.*

LPA No. 247 of 2015. [O&M]
Date of Decision: 06th April, 2015.

Late Hazura Singh through his LRs
Appellants through
Mr. Gitish Bhardwaj, Advocate

Versus

State of Punjab & Ors. Respondents through
Mr. Aman Bahri, Additional AG, Punjab.

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

- 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.

[2]. Mr. Aman Bahri, learned Additional AG, Punjab, who is present in Court, accepts notice.

[3]. This Letters Patent Appeal assails the order dated 27.10.2014 whereby learned Single Judge has dismissed the appellants' writ petition in which they challenged the orders passed by Revenue Authorities including the Collector, Agrarian, Kharar.

[4]. The issue under consideration of the Revenue Authorities as well as the learned Single Judge was whether the *shamlat-deh* land which vests in the Gram Panchayat could be declared 'surplus' and consequently allotted under the provisions of the Punjab Security of Land Tenures Act, 1953 and the Punjab Land Reforms Act, 1972?

[5]. Learned Single Judge has held and rightly so that the Gram Panchayat does not fall within the definition of 'landowner' under the above said Act and as such land owned by it could not be declared surplus. Learned Single Judge has further observed that under Section 27[b] of the Punjab Land Reforms Act, 1972 the land belonging to or vested in the 'Local Authority' is expressly exempted from operation of that Act. Resultantly, learned Single Judge declined

to interfere with the orders whereby allotment of Gram Panchayat land made in favour of the appellants was set aside.

[6]. No exception can be taken to the view formed by the learned Single Judge in this regard.

[7]. Having held that, we further find that according to learned Single Judge, since the appellants' predecessor-in-interest was found entitled to allotment of land out of the surplus pool, the Competent Authority was required to consider the appellants' claim for allotment of land which has been declared surplus and is available for such allotment.

[8]. When this appeal came up for preliminary hearing on 12.02.2015, we declined to interfere in the order passed by learned Single Judge to the extent it holds that the land owned by the Gram Panchayat could not be declared surplus. As regard to the direction issued in the ultimate para of the order, we were tentatively of the view that such a direction need to be made more effective so that hardship caused to the appellant[s] can be minimised. We, thus, gave liberty to the legal heirs of the allottee to furnish particulars of some alternative land available in the 'surplus pool' so that a direction to allot such land could be issued.

[9]. Learned counsel for the appellants states that despite their best efforts, they have not been able to lay hands to the particulars of any un-allotted land available in the 'surplus pool' and that efforts are still being made to obtain information including under the Right to Information Act.

[10]. Having heard learned counsel for the parties, we do not deem it necessary to keep his appeal pending as the appellants, who belong to poor strata of the society, in any case are entitled to allotment of alternative land provided that such land is available in the 'surplus pool'. Further the appellants can not be expected to have access to the records and find out availability of such land. Rather, obligation to this effect lies on the Collector, Agrarian. We, thus, in modification of the order dated 27.10.2014 of the learned Single Judge, dispose of this appeal with a direction to the Collector,

Agrarian, Kharar and/or the higher authorities in the State of Punjab in this regard, to find out the alternative un-allotted land lying in 'surplus pool' for the purpose of allotment to the appellants who are legal heirs of the deceased allottee, subject, however, to their eligibility etc. The needful in this regard shall be done within a period of six months from the date a certified copy of this order is produced.

[11]. Disposed of. Dasti.

[12]. Since the appeal has been disposed of on merits, it is not necessary to go into the question of delay in its filing.

(SURYA KANT)
JUDGE

April 06, 2015.
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(P.B.BAJANTHRI)
JUDGE