

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

**RSA No.2506 of 2015 (O&M)
Date of Decision: 20.08.2015**

Harwati

.....Appellant

Vs.

Gram Panchayat of village Kuslipur No.1

.....Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. B.S.Tewatia, Advocate for the appellant.

AUGUSTINE GEORGE MASIH, J. (Oral)

Challenge in this appeal is to the judgment and decree passed by the learned Addl. District Judge, Palwal, dated 9.01.2015, vide which the judgment and decree passed by the Addl. Civil Judge (Sr. Divn.), Palwal, dated 28.10.2013, in favour of the appellant-plaintiff has been set aside and the suit of the appellant-plaintiff dismissed.

It is the contention of the counsel for the appellant-plaintiff that a residential plot comprised in khewat No.342, khatoni No.356 min, Rect. No.15, Killa No.23/6 (0-3), measuring 3 marlas, situated within the abadi deh/revenue estate of village Kuslipur No.1, Tehsil Palwal, District Palwal was allotted to the plaintiff by the gram panchayat vide resolution No.70 dated 18.8.1993, as she had undergone a tubectomy operation on 19.08.1993 at Government Hospital, Palwal of family planning and this allotment of the plot was a reward thereto. The suit of the plaintiff was

decreed by the trial Court on 28.10.2013, rejecting the stand of the respondent-defendant that allotment in favour of the appellant-plaintiff was not in consonance of any policy of the Government of Haryana. It was asserted that the father-in-law of the appellant-plaintiff namely Rewati Parshad, who was the Sarpanch of the Gram Panchayat, was in unauthorised possession over the panchayat land because of which the Deputy Commissioner, Faridabad dismissed him from the post, which was challenged but was upheld by the Financial Commissioner and Principal Secretary to Government of Haryana Development and Panchayat Department, Chandigarh on 14.11.2008. It was further asserted that there was no policy of Haryana Government under the National Sterilization Scheme according to which the land could have been transferred/allotted to a resident of the village, who has undergone a sterilization operation for family planning purposes.

The stand of the respondents as stated above, stands accepted by the learned Lower Appellate Court which resulted in dismissal of the suit filed by the appellant-plaintiff.

It is the contention of the counsel for the appellant that apart from the appellant-plaintiff seven other persons who had undergone sterilization operation for family planning purpose were allotted plots measuring 3 marla, vide a resolution No.70 dated 18.8.93. Only appellant-plaintiff has been targeted and too because of party faction in the panchayat. All other seven persons are continuing in possession of the plot allotted to them and thus, the action of the respondent-gram panchayat against the appellant-plaintiff being *mala fide* cannot sustain. He has referred to the

case of one Om Parkash who was similarly situated as the appellant-plaintiff who had allotted 3 marla plot vide same resolution who also filed a suit as the appellant-plaintiff which was decreed in his favour but the Gram Panchayat preferred not to file any appeal against the said judgment and decree dated 13.09.2013, whereas, in the case of the appellant-plaintiff appeal was preferred. On this basis, he contends that the judgment passed by the Lower Appellate Court deserves to be set aside.

The contention as raised by the counsel for the appellant cannot be accepted in the light of the fact that there is no policy of the Government of Haryana under the National Sterilization Scheme for allotment of plot in favour of member of gram panchayat who had undergone sterilization operation for family planning purposes. In the absence of any scheme/policy decision of the Government the allotment of the plot by resolution No.70 dated 18.8.1993 is illegal. If the very basis on which the case/claim of the appellant-plaintiff is not legally founded, the plaintiff can only be said to be in un-authorised possession of the said plot. The findings as recorded by the learned Lower Appellate Court therefore, cannot be faulted with.

As regards the contention of the counsel for the appellant-plaintiff that she had been targeted because of party faction and the appeal has been filed with mala fide intention against the judgment and decree passed by the trial Court as no appeal in the similar case of one Sh. Om Parkash son of Bhuddi Ram has been filed, the same cannot be accepted as two wrongs cannot make one wrong correct, if an act is illegal. The repetition of the same or continuation thereof does not confer any sanctity

of it being legal, it will continue to be illegal as the very basis is not in accordance with the law. The judgment passed by the lower Appellate Court being in accordance with law, do not call any interference.

There is no perversity or illegality in the findings of learned First Appellate Court. No substantial question of law is involved in the present appeal.

The appeal stands dismissed.

C.M. No.6527-C of 2015

Since the appeal has been dismissed, therefore, the present application has become infructuous.

Disposed of accordingly.

20.08.2015

Manoj Bhutani

(AUGUSTINE GEORGE MASIH)
JUDGE