
(2014) 12 P&H CK 0192
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 17805 of 2014 (O and M)

Kishna and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-12-2014

Acts Referred:

Citation : (2015) 3 RCR(Civil) 22

Hon'ble Judges : Surya Kant, J;Raj Mohan Singh, J.

Bench : Division Bench

Advocate : V.K. Thakur, Advocate, for the Appellant; R.K.S. Brar, Additional A.G., for the Respondent

Final Decision : Disposed off

Judgement

Surya Kant, J.?(Oral) - The petitioners who belong to Bawaria caste, which has been declared as "Scheduled Caste", are residents of village Manana, Tehsil Samalkha, District Panipat. Their case is that they have constructed dwelling units on the Gram Panchayat land measuring about 2-3 acres where they are living for the last more than 30-40 years. The petitioners further aver that they are land-less persons and have no other house or means to provide social shelter to their family. It appears that a resident of the village approached this Court in CWP No. 25151 of 2013 [Dharambir v. State of Haryana & Ors.] alleging that about 200 acres of land owned by the Gram Panchayat has been un-authorisedly encroached upon. This Court disposed of that writ petition with a direction to the Deputy Commissioner, Panipat on 18.11.2013 [P-5] to look into the matter and if the allegations regarding un-authorised occupation of the Gram Panchayat land were correct, to direct the Gram Panchayat to initiate suitable action.

2. Apprehending that their dwelling units are likely to be demolished in purported compliance to the directions referred to above, the petitioners have filed the instant writ petition.

3. We have heard learned counsel for the parties.

4. It is pointed out by learned counsel for the Gram Panchayat that in deference to the directions issued by this Court in CWP No. 25151 of 2013, eviction proceedings have been initiated in the court of Assistant Collector, Samalkha where the matter is still pending. He further assures that houses of the petitioners shall not be demolished except in due course of law.

5. In view of the above stated stand taken by the Gram Panchayat as well as by the State counsel, the well advised recourse for the petitioners would be to join the proceedings before the Assistant Collector and establish their claim in accordance with law. We grant that liberty to them.

6. That apart, it further appears that if the petitioners are entitled to allotment of 100 Square Yard residential plots in terms of the Mahatma Gandhi Gramin Basti Yojna implemented by the State of Haryana vide Circular dated 01.02.2008, their claim for such allotment can be considered, provided that they fulfill the requisite conditions contained therein and without insisting them to vacate the land under their occupation.

7. We, thus, dispose of this writ petition with the following directions:-

[i] the Competent Authority including Gram Panchayat shall consider the claim of the petitioners for allotment of 100 square yard plots under the above stated Government Scheme without insisting them to first vacate the land under their possession. If they are found eligible, they shall be allotted the plot[s], subject to the condition that they shall vacate any excess part of the Panchayat land;

[ii] the Assistant Collector, Samalkha shall independently examine the claim of the petitioners as per law in the pending eviction proceedings.

8. Till the above stated decisions are taken, status-quo re: further construction and/or demolition shall be maintained by the parties. Disposed of.