

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Civil Writ Petition No.19903 of 2015

Date of Decision: September 18, 2015

Pala Ram and another

.....Petitioners

versus

State of Haryana and others

.....Respondents

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

Present: Mr.H.S.Grewal, Advocate, for the petitioners.

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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)

The petitioners have been ordered to be evicted from the land measuring 76 kanal 19 marla situated within the revenue estate of village Nauch, Tehsil and District Kaithal. The impugned eviction order dated 12.05.2014 has been passed under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961, as applicable to the State of Haryana (for short, 'the Act'), in a petition filed by the Gram Panchayat. The Appellate Authority has dismissed the petitioners' appeal vide order dated 14.11.2014 and their revision petition too has been dismissed by the Revisional Authority vide order dated 10.07.2015.

The primary contention of the petitioners is that the land has been, from the very inception, owned by Mushtarka Malkan Hasb Rasad Jar Khewat and has thus been apportioned amongst the proprietors on pro-rata basis. It is

however, not in dispute that such declaration re: ownership or possessory right can be given by the Collector in a petition filed under Section 13-A of the Act. The petitioners have not filed any such petition.

Faced with this, learned counsel for the petitioners submits that he may be permitted to withdraw this writ petition with liberty to file a declaratory petition under Section 13-A of the Act.

Ordered accordingly.

Needless to say that the petition that may be instituted by the petitioners shall be decided by the Collector independently on the basis of evidence that may be led before that Court. Since the petitioners are apprehending their dispossession, it is further directed that if the petitioners file the aforesaid petition under Section 13-A of the Act within one week alongwith an application for interim stay, the Collector shall decide the stay application within two weeks.

With a view to enable the petitioners to file the aforesaid petition, status-quo re: possession is directed to be maintained till 09.10.2015.

Dasti.

[SURYA KANT]
JUDGE

September 18, 2015
mohinder

[JASPAL SINGH]
JUDGE