

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

CWP-27024-2014

Decided on : 12.05.2015

Lashmi and others

.... Petitioners

VERSUS

The State of Punjab and others

..... Respondents

CORAM: **HON'BLE MR. JUSTICE RAJIVE BHALLA**
 HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: **Mr.Malkeet Singh, Advocate, for the petitioners.**

**Mr.Rajinder Goyal, Addl.A.G., Punjab,
for respondents No.1 to 3.**

**Mr.C.L.Premy, Advocate, for
Ms. Naiya Gill, Advocate, for respondent No.4.**

RAJIVE BHALLA, J. (ORAL)

The petitioners pray for issuance of a writ of mandamus, quashing order dated 01.10.2014, passed by the Deputy Commissioner, SBS Nagar.

Counsel for the petitioners submits that the impugned order is incorrect as the Deputy Commissioner has power to transfer land to any person. The petitioners are members of the Scheduled Caste community and have been using the land to tether their cattle, store cow dung cakes, firewood and agricultural implements, for the last fifty years. The land should, therefore, be transferred to them in accordance with policy dated 14.08.2008.

Reply filed on behalf of respondent No.4, in Court today, is taken on record. Counsel for respondent No.4 submits that the land, in dispute, is the common land of the village and forms part of a pond. The petitioners have been ordered to be evicted but in order to delay

their eviction have filed an appeal which is barred by 4333 days. The impugned order does not suffer from any error as the Deputy Commissioner is not empowered to transfer the land belonging to the Gram Panchayat and nor has the Gram Panchayat passed any resolution agreeing to transfer the land to the petitioners.

We have heard counsel for the parties and perused the impugned order.

The Deputy Commissioner, SBS Nagar, has rightly held that as the land is situated within the Abadi Deh of the village, he has no authority to order its allotment to the petitioners. This apart, the petitioners have been ordered to be evicted and have admittedly filed an appeal which is pending consideration.

At this stage, counsel for the petitioners prays that as the appeal challenging eviction orders, is pending before the appellate authority, the petitioners' possession may be protected.

Consequently, while dismissing the writ petition, we take note of the fact that the petitioners have filed an appeal challenging eviction orders and direct that during pendency of the appeal, parties shall maintain status quo with respect to possession. The appeal be decided within two months of the receipt of a certified copy of this order.

[RAJIVE BHALLA]
JUDGE

12.05.2015
Shamsher S.Sabharwal

[AMOL RATTAN SINGH]
JUDGE