

Civil Revision No.7838 of 2016

In the High Court of Punjab and Haryana at Chandigarh

**Civil Revision No.7838 of 2016
Date of Decision:21.11.2016**

Aslup through Lrs and others

---Petitioners

versus

Gram Panchayat Sihri Singalheri Tehsil Punhana District Mewat

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. P.S.Jammu, Advocate
for the petitioners**

REKHA MITTAL, J.

The present petition directs challenge against orders dated 30.11.2013 passed by the Additional Civil Judge (Senior Division), Ferozepur Zirka and dated 14.11.2014 passed by the Additional District Judge, Mewat whereby application filed by the petitioners for grant of interim injunction was dismissed and the order passed by the trial court has been affirmed in appeal.

Counsel for the petitioners would submit that the petitioners are in possession of the suit land since the year 1957. The respondent gram panchayat initiated proceedings under Section 5 of the Public Premises Act that culminated in order dated 30.9.1989. The appeal preferred by the petitioners against the order of eviction also proved to be unsuccessful. The petitioners filed Civil Writ Petition No. 6814 of 1989 in the Punjab and Haryana High Court and in that petition, eviction of the petitioners was stayed. The writ petition was later withdrawn vide order dated 29.11.2010 with liberty to file a title suit. It is argued that proceedings initiated by the petitioners under Section 13A of the Punjab Village Common Lands Act, 1961 as applicable to the State of Haryana (in short “the Act”) are pending adjudication and in those proceedings the petitioners have already filed an application for stay but the same has not been decided. It is argued that as the petitioners have already filed a title suit with a prayer for stay against their eviction, the respondent cannot be allowed to recover possession of the suit land, therefore, the respondent is liable to be restrained from interfering in possession of the petitioners during pendency of the suit.

I have heard counsel for the petitioners, perused the paper

book particularly the orders impugned.

Be that as it may, it is an admitted position of the case that the respondent gram panchayat initiated proceedings under the Public Premises Act for recovering possession of the suit land from the petitioners and the same have attained finality as eviction order passed way back on 30.11.1989 was affirmed in appeal vide order dated 24.2.1989 and the writ petition preferred before the High Court came to be dismissed vide order dated 29.11.2010. It is also undenied that during pendency of the writ petition, eviction of the petitioners was stayed vide order dated 23.5.1989 and the stay order remained operative till disposal of the writ petition in November 2010. As per the settled position in law, an action of the court cannot cause prejudice to a party. The trial court has rightly held that period of stay is to be excluded for the purpose of calculating the period of limitation to execute the order of eviction. As the respondent gram panchayat has sought to recover possession from the petitioners in pursuance of eviction order that has attained finality, the petitioners cannot be heard to say that action of the respondent-gram panchayat is unwarranted much less illegal required to be stayed by the civil court. Pendency of the

proceedings under Section 13-A of the Act would not enure to benefit of the petitioners unless and until eviction of the petitioners is stayed by the authority before whom the proceedings under Section 13-A of the Act are pending till question of title is decided. In this view of the matter, no fault much less perversity can be noticed in the impugned orders warranting intervention.

For the foregoing reasons, the petition fails and is accordingly dismissed in limine. Nothing stated in this order shall be construed as an expression of opinion on merits of the case.

(Rekha Mittal)
Judge

21.11.2016
PARAMJIT

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No