

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

CWP No.8665 of 2017

Date of decision:27.04.2017

Bhoop Singh and others

... Petitioners

Vs.

The State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Ashish Aggarwal, Senior Advocate with
Ms. Aakriti Malik, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The contention of Mr. Ashish Aggarwal, learned Senior Counsel assisted by Ms. Aakriti Malik, Advocate appearing on behalf of the petitioners is that the Gram Panchayat had initiated the proceedings under Section 24(1) of The Haryana Panchayati Raj Act, 1994 (hereinafter referred to as "1994 Act") which cannot be initiated in view of the decision rendered by this Court on **12.04.1996 in CWP No.5247 of 1996 titled as Sat Narain and others vs. State of Haryana and others (Annexure P-8)**. At the best, they can be dispossessed in accordance with law. The allegation is that the respondents are interfering and dispossessing the petitioners. Thus, the petition is totally contrary to the allegation. The petitioners have been issued notices, vide Annexure P-10 (Colly) for removal of the alleged unauthorized possession under Section 24(1) of 1994 Act and the same have been replied vide Annexure P-11 (Colly). Without establishing the

encroachment by relying upon the demarcation report etc. after filing the writ petition, the petitioners were communicated notices under Section 24 (2) of 1994 Act, for removal of the alleged encroachment upto 01.05.2017 and the same shall be demolished on 02.05.2017. Concededly, the remedy against the aforementioned proceedings, i.e., under Section 24 of 1994 Act, is to file an appeal before the Director or Deputy Commissioner.

Confronted with the situation, learned Senior counsel submits that he will avail the remedy by filling an appeal before the Director or Deputy Commissioner with a prayer for interim relief.

Notice of motion.

On asking of the Court, Mr. Indresh Goel, Additional Advocate General, Haryana accepts notice on behalf of the respondents-State.

In view of the aforementioned, I deem it appropriate to dispose of the present writ petition with a liberty to the petitioners to avail the remedy under Section 28 of 1994 Act by challenging the notice Annexure P-10 and order dated 25.04.2017 passed under Section 24(2) of 1994 Act, along with an application for interim stay. For the sake of brevity, the provisions of Section 28 of 1994 Act read as under:-

“28. Any person aggrieved by an order of the Gram Panchayat made under sections 24, 25 and 27 may within a period of thirty days of such order, prefer an appeal to the Director whose decision shall be final and shall not be liable to be questioned in any court of law.”

In case, the aforementioned remedy is availed within a period of one week

from today, the interim application shall be considered by the Director/Deputy Commissioner and there shall be interim stay qua demolition/dispossession till he decides the interim application.

Accordingly, the writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

April 27, 2017
savita

Whether Speaking/Reasoned
Whether Reportable

Yes/No
Yes/No