

CWP No.20798 of 2018 :1:

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

CWP No.20798 of 2018(O&M)
DATE OF DECISION:04.12.2018

Gram Panchayat Sahsola

...Petitioner

Vs.

State of Haryana & others

...Respondents

**CORAM:- HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE LALIT BATRA**

Present: Mr. Hardeep Singh Dhillon, Advocate and
Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Ankur Mittal, Additional A.G., Haryana.

Mr. Ashish Chopra, Advocate and
Mr. Gurpreet Randhawa, Advocate
for respondents No.3. & 4.

MAHESH GROVER, J. (Oral)

This writ petition is directed against orders dated 19.09.2017(Annexure P-4) and 08.06.2018(Annexure P-7) whereby interim injunction granted in favour of the Gram Panchayat initially was over turned. The petitioner-Gram Panchayat initiated proceedings against the present respondents under Section 7 of the Punjab Village Common Land Act. The Collector initially granted the interim injunction, restraining the respondents from raising any construction on the land which was claimed as Shamlat. This *ex-parte* order was carried in appeal by the

respondents and the Collector vide his order dated 19.09.2017(Annexure P-4) accepted the prayer and stayed the operation of the order of Assistant Collector dated 06.09.2017(Annexure P-2). This order was then challenged by the Gram Panchayat-present petitioner before the Commissioner who agreed with the order of the District Collector and dismissed the revision. The present petition is directed against the afore-noticed orders.

This Court vide its order dated 20.08.2018 granted status quo to be maintained both in possession and character. Before the writ petition could be filed the District Collector disposed of the appeal itself on 12.12.2017 with the following directions:

“Therefore, on the basis of above facts, the appeal of the appellant is allowed and the interim stay order dated 06.09.2017 passed by assistant Collector First Grade, Nuh is set aside being illegal because the lower Court has not based its decision on the merits of the case. Therefore, the original case file is returned to the lower Court with this direction that lower Court should decide the case on its merits on hearing both the parties within a period of three months. The original case file be returned to Assistant Collector First Grade, Nuh. Order pronounced in open Court. File be consigned to record room after due compliance.”

We have heard learned counsel for the parties and have perused the impugned orders and are of the opinion that utter confusion has been created by the authorities themselves. The initial order of the Assistant Collector being cryptic and non-speaking, the District Collector was right in observing so. In fact that has been stated that it would be sufficient to go into the matter and remand the proceedings asking the

Assistant Collector to decide the issue of interim injunction by giving reasons. Instead the appeal was kept pending and an interim order staying the operation of the order of the Assistant Collector was passed which led to a revision petition. A perusal of the order dated 08.06.2018 passed by the Commissioner in revisional jurisdiction shows that he has virtually decided the whole controversy and probably left nothing for the Assistant Collector to decide whereas he ought to have confined himself only to the controversy raised qua the interim directions. The petitioner too has not made things easier for itself by not disclosing this order dated 12.12.2017 to this Court, even though, it was passed barely a month after the revision petition was preferred. In nutshell, the situation that emerges is that the substantive controversy raised by the Panchayat in proceedings under Section 7 of the Act has to be decided on merits. Both the Collector and Commissioner should have considered this aspect and left it to the Assistant Collector to decide the issue of interim injunction by passing reasoned order.

Even otherwise, it would be in the fitness of things if the Assistant Collector decides the issue by permitting the parties not only to plead their case but also adduce evidence considering that proceedings under Section 7 are summary in character. We would therefore direct that de hors the orders of District Collector dated 19.09.2017(AnnexureP-4) District Commissioner dated 08.06.2018 (Annexure P-7), the Assistant Collector would decide (Annexure A-3) on merits within a period of four months from the date of receipt of the certified copy of the order and till

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that time alone status quo regarding possession and character of the property shall be maintained.

Disposed of.

(MAHESH GROVER)
JUDGE

(LALIT BATRA)
JUDGE

04.12.2018
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No