

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-26320-2017

Date of Decision: 22.3.2018

Mahavir Singh @ Mahabir and another

....Petitioners.

Versus

State of Haryana and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

PRESENT: None for the petitioners.

Mr. D.R. Singla, Deputy Advocate General, Haryana.

Mr. Deepak Balyan, Advocate for respondent No.2 and 3.

AJAY KUMAR MITTAL, J.

1. By way of instant petition filed under Articles 226/227 of the Constitution of India, the petitioners have prayed for issuance of a writ in the nature of certiorari for quashing the order dated 13.11.2017 (Annexure P-2) passed by respondent No.3 directing the petitioners to vacate booth No.23, New Vegetable Market, Jhajjar despite of the fact that the appeal against the resumption order dated 18.12.2014 is still pending. Further, a writ of mandamus has been sought directing the respondents to decide the appeal dated 13.3.2015 (Annexure P-1) filed by the petitioners.

2. Briefly stated, the facts necessary for adjudication of the instant writ petition as narrated therein may be noticed. Booth No.23, New

Vegetable Market, Jhajjar was allotted to petitioner No.1 vide allotment letter dated 8.2.2008 in open auction through draw of lots. Respondent No.3 vide order dated 28.11.2014 ordered for resumption of the booth in question and vide letter dated 18.12.2014 directed petitioner No.1 to vacate the said booth. Petitioner No.1 vide agreement to sell dated 18.2.2013 transferred the said booth in favour of petitioner No.2. Against the order dated 28.11.2014, the petitioners had filed an appeal dated 13.3.2015 (Annexure P-1) before respondent No.2. According to the petitioners, the arguments were heard on 8.11.2017 and the case was fixed for 29.11.2017 for final decision. However, respondent No.3 vide notice dated 13.11.2017 (Annexure P-2) directed the petitioners to vacate the booth in question within a period of seven days. Hence, the present writ petition.

3. A perusal of the petition reveals that against the resumption order dated 28.11.2014, the petitioners had filed appeal which is pending consideration and vide notice dated 13.11.2017 (Annexure P-2), the respondents intended to take possession of the booth in question.

4. Learned counsel for the respondents supported the resumption order dated 28.11.2014 passed by respondent No.3.

5. After perusing the petition and hearing learned counsel for the respondents, in the interest of justice and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.1 to take a decision on the appeal dated 13.3.2015 (Annexure P-1), in accordance with law by passing a speaking order within a period of three months from the date of receipt of the certified copy of the order. Till then no coercive methods would be taken by the respondents. Needless to say that the grant of interim protection would not be taken to be an

expression of opinion on the merits of the case.

(AJAY KUMAR MITTAL)
JUDGE

March 22, 2018
gbs

(ANUPINDER SINGH GREWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No