

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-26418-2017

Date of Decision: 22.3.2018

Kuldeep and others

....Petitioners.

Versus

Financial Commissioner Revenue-cum-Addl. Chief Secretary 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 notice dated 13.11.2017 (Annexure P-10) issued by respondent No.3 directing the petitioners to vacate booth No.20, New Vegetable Market, Jhajjar despite of the fact that the review petition (Annexure P-9) against the order dated 17.10.2016 (Annexure P-8) against the resumption order dated 28.11.2014 (Annexure P-3) is still pending. Further, a writ of mandamus has been sought directing respondent No.1 to decide the review petition (Annexure P-9) within some stipulated period.

2. Briefly stated, the facts necessary for adjudication of the instant writ petition as narrated therein may be noticed. Booth No.20, New Vegetable Market, Jhajjar was allotted to petitioner No.3 vide allotment letter dated 8.2.2008 (Annexure P-1) in open auction through draw of lots. Petitioner No.3 vide agreement to sell dated 18.2.2013 transferred the said booth in favour of petitioners No.1 and 2. Petitioner No.3 vide application dated 8.9.2014 (Annexure P-2) applied to respondent No.3 for depositing the whole remaining amount of the booth in question. Respondent No.3 vide order dated 28.11.2014 (Annexure P-3) ordered for resumption of the booth in question. Against the order, Annexure P-3, petitioner No.1 had filed an appeal dated 12.12.2014 (Annexure P-4) before respondent No.2 who vide order dated 27.1.2015 (Annexure P-5) dismissed the said appeal. Feeling aggrieved by the order, Annexure P-5, the petitioners filed revision dated 16.11.2017 (Annexure P-6) before respondent No.1. The petitioners requested for grant of interim relief, but to no effect. Accordingly, the petitioners filed CWP-4522-2015 and this Court vide order dated 12.3.2015 (Annexure P-7) while issuing notice of motion granted interim stay. Further, this Court vide order dated 30.6.2015 (Annexure P-7) disposed of the said writ petition with a direction to respondent No.1 to decide the prayer of the petitioners for grant of interim relief within one month. In pursuance thereto, respondent No.1 vide order dated 17.10.2016 (Annexure P-8) dismissed the revision petition of the petitioners. Thereafter, the petitioner filed review petition dated 31.1.2017 (Annexure P-9). Respondent No.3 vide notice dated 13.11.2017 (Annexure P-10) directed the petitioners to vacate the possession of the booth in question. Hence, the present writ petition.

3. A perusal of the petition reveals that the review petition, Annexure P-9, filed by the petitioners against the order, Annexure P-8, against the resumption order, Annexure P-3, is pending consideration before respondent No.1 and vide notice dated 13.11.2017 (Annexure P-10), the respondents intended to take possession of the booth in question.

4. Learned counsel for the respondents supported the orders (Annexures P-8 and P-3, respectively) passed by respondents No.1 and 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 review petition dated 31.1.2017 (Annexure P-9), in accordance with law by passing a speaking order within a period of one month 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