

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

CWP No. 32099 of 2018

Date of Decision: 15.12.2018

NAR SINGH AND OTHERS

... *Petitioners*

V/s.

STATE OF HARYANA AND OTHERS

....*Respondents*

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.
HON'BLE MR. JUSTICE B.S.WALIA.

Present: Mr. Vikram Singh, Advocate
for the petitioners.

RAKESH KUMAR JAIN, J. (Oral)

Although this petition is filed for seeking a writ in the nature of *certiorari* but during the course of hearing, learned counsel for the petitioners has restricted his prayer for the issuance of a writ in the nature of mandamus for a direction to respondent No. 2 before whom, appeal filed by the petitioners under Section 13-AA of the Punjab Village Common Lands (Regulations) Act, 1961 (for short 'the Act') against the order passed by the Collector, dismissing their suit is pending, to decide it as early as possible, preferably on the date already fixed i.e. 19.01.2019.

In brief, the petitioners had initially filed a suit under Section 13-A of the Act which was dismissed on 07.05.2007. Thereafter, their revisions/appeals were also dismissed on 29.01.2008, 11.10.2008 and 05.03.2014 respectively. Thereafter, the petitioners filed CWP No. 10857 of 2015 which was also dismissed on 10.09.2015 but liberty was granted to them to file fresh suit in order to establish their title over the land in question by establishing that they or their predecessors were in continuous possession prior to 26.01.1950. Thereafter, the petitioners filed a fresh suit under Section

13-A of the Act but at the same time Gram Panchayat filed an application under Section 7 of the Act for seeking eviction of the petitioners from the land in dispute which is allegedly the *shamlat deh* (common purposes). The said application of the Gram Panchayat was allowed on 12.05.2010. The petitioners' appeal, filed under Section 13-B(1) of the Act was also dismissed by the Collector. Even the revision filed by the petitioners under Section 13-B (2) of the Act is dismissed by the Commissioner of the Division. The said orders have been challenged in this petition but the petitioners have made a prayer that before the respondents take possession of the land in question allegedly on the ground that it vests in the Gram Panchayat and being the *shamlat deh*, their appeal filed under Section 13-AA of the Act against the dismissal of the suit filed under Section 13-A, pending before the Commissioner may be ordered to be decided otherwise the said appeal would become infructuous.

It is also submitted that in case, the appeal is allowed by the Commissioner then the orders passed under Section 7 of the Act would become redundant as the petitioners would be held to be in possession of the property as owners and the land would be declared not to have been vested in the Gram Panchayat as *shamlat deh*.

We have heard learned counsel for the petitioners and after examining the available record we are of the considered opinion that at this stage, it would be just and expedient that a direction can be issued to decide the appeal pending before him for 19.01.2019 by passing a speaking order. Since, we have passed this order only to issue direction to respondent No. 2, therefore, we do not find necessity to issue notice to save time in this regard.

It is needless to mention here that the appeal may be decided by passing a speaking order on the date fixed i.e. 19.01.2019 and till then parties shall maintain status quo in respect of the possession.

[RAKESH KUMAR JAIN]
JUDGE

December 15, 2018
Ess Kay

[B.S. WALIA]
JUDGE

Whether speaking / reasoned :	✓ Yes	/	No
Whether Reportable :	Yes	/	No