

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

CWP No.935 of 2019

Date of Decision:-23.01.2019

Sukhbir Singh.

.....Petitioner.

Versus

State of Haryana & Ors.

.....Respondents.

**CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI**

Present:- Mr. S.S. Dinarpur, Advocate for the Petitioner.

JASWANT SINGH, J.(ORAL)

Petitioner claims to be a resident of Chabutron, Tehsil Jagadhari, District Yamuna Nagar in view of his ancestors having purchased land from the original proprietors of the village.

The dispute is that the petitioner is claiming the ownership to the extent of 1/5th share in the total land measuring 870 Kanals 13 marlas of *Shamlat* land as detailed in para no.2 of the petition on account of the aforesaid purchase, whereas the stand of the Panchayat is that the share in the *Shamlat* land by the original proprietors was never purchased by the ancestors of the petitioners.

The eviction proceedings initiated by the Gram Panchayat under Section 7(2) of The Punjab Village Common Land Act, 1961 (for short 1961 Act) were decided in favour of the Gram Panchayat by the

Assistant Collector Ist Grade as also by the Appellate Authority i.e. Commissioner Ambala Division regarding dispossession of petitioner-Sukhbir from **11K-0M** comprised in Khewat No.44 Khatauni No.115 Khasra No.4//15, 9//14min total area measuring 11K-0M situated in village Chabutron HB No.368, Tehsil Bilaspur, District Yamuna Nagar. The revision petition filed by the petitioner is stated to be pending before the Revisional Authority wherein the stay has been declined vide order dated 6.02.2018 (**P-8**).

Simultaneously the title suit filed by the petitioner against the Gram Panchayat under Section 13A of the 1961 Act also stands decided against the petitioner and in favour of the Gram Panchayat vide order dated 31.10.2018 Annexure P-3 passed by the Collector Yamuna Nagar. The petitioner has filed the appeal along with an application for stay before the Appellate Authority i.e. Commissioner, Ambala Division which is stated to be pending.

The present petition is directed against the order dated 6.02.2018 (**P-8**) passed by the Revisional Authority-Commissioner, Ambala Division, whereby no stay against the eviction order was granted during the pendency of the revision petition.

It is contended that the eviction orders cannot be legally implemented till the appeal directed against the dismissal of the title suit is decided by the learned Commissioner as per settled law.

Notice of motion to official respondents nos.1 to 4 only.

On the asking of the Bench, Mr. Arun Beniwal, Deputy Advocate General, Haryana accepts notice.

In view of the proposed order to be passed by this Court notice

to the Gram Panchayat concerned is not being issued.

Learned State Counsel does not dispute the aforesaid settled principle of law that till the finalization of the appeal regarding the title suit, the eviction orders cannot be executed.

In view of the aforesaid circumstances, we deem it appropriate to dispose of the present writ petition with direction to the Commissioner, Ambala Division i.e. the Appellate Authority in the title suit to decide the pending appeal of the petitioner within a period of four months from the date of receipt of certified copy of this order. It is further directed that till the appeal is decided there shall be stay of dispossession of the petitioner from the land in question.

Registry is directed to convey this order to the Commissioner, Ambala Division.

(JASWANT SINGH)
JUDGE

(ARUN KUMAR TYAGI)
JUDGE

January 23, 2019
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>