

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

CWP No.27601 of 2019

Date of Decision: 24.09.2019

Manjit Kaur and another

....Petitioners

Versus

State of Punjab and others

....Respondents

**CORAM :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present:- Ms. Satinder Kaur, Advocate
for the petitioners.

DAYA CHAUDHARY, J. (ORAL)

The petitioners have approached this Court by way of filing the present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* quashing the Form 'R' notices dated 06.07.2017, 26.07.2017 and 20.09.2017 (Annexures P-2, 2/A, 2/B), Form 'S' Demand notice dated 06.11.2017 (Annexure P-4), Form 'M' Recovery Certificate Dated 27.02.2018 (Annexure P-5) passed by respondent No.3 as well as orders of attachment and auction order dated 18.09.2019 (Annexure P-7).

Learned counsel for the petitioners submits that the petitioners are the owners and in possession of the land. There was no mining activity carried out by them. She further submits that only the sand was used for welfare of the village/street and for common purposes. There was no commercial activity of auction which was being carried out by the petitioners.

Learned counsel also submits that the facts as mentioned in the reply were not taken into consideration and no enquiry which was necessary has been conducted.

Notice of motion.

On asking of the Court, Mr. Sahil Sharma, D.A.G., Punjab, who is present in the Court, accepts notice on behalf of respondents-State and has raised a preliminary objection that the petitioners are having remedy of filing an appeal but without availing the said remedy, the present petition has been filed.

The submissions made by learned State counsel have also not been disputed by learned counsel for the petitioners. However, learned counsel for the petitioners submits that because of urgency to challenge the auction notice, the petitioners could not file an appeal and hence, the said remedy was not availed by them.

By considering the submissions made by learned counsel for the parties, the present petition is disposed of with a direction to the petitioners to avail an alternate remedy of filing an appeal. However, the appeal be filed within a period of one week from today and in case, the appeal is filed by the petitioners within said period, the respondents are directed not to proceed with the auction proceedings on the basis of auction order dated 18.09.2019 (Annexure P-7) till the filing of the appeal.

A copy of this order be given *dasti* to learned counsel for the parties under the signatures of Bench Secretary of this Court.

(DAYA CHAUDHARY)
JUDGE

(SUDHIR MITTAL)
JUDGE

24.09.2019
gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No