

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 7792 of 2020 (O&M)

Date of decision : 8.6.2020

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Kirpal Singh and another

.....Petitioners

vs.

State of Haryana and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Jagdish Manchanda, Advocate
for the petitioners.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing.

Petitioners – Kirpal Singh and Ranjit Singh, have filed the instant civil writ petition against respondents – State of Haryana through Additional Chief Secretary, Agriculture Department, Civil Secretariat, Chandigarh; Assistant Collector I-Grade, Pehowa, District Kurukshetra, Haryana and Kulwinder Kaur w/o Jaspal Singh; Manjit Kaur w/o Sukhdev Singh; Gurmeet Kaur w/o Kewal Singh – all residents of Village Sandholi, Tehsil Pehowa, District Kurukshetra. including proforma respondents – Gurdev Singh s/o Sant Singh and Balwinder Kaur w/o Santokh Singh both residents of Village Sandholi, Tehsil Pehowa, District Kurukshetra, craving for

issuance of a writ in the nature of certiorari for quashing of order dated 3.3.2020 (Anneuxre P-11), passed by Financial Commissioner, Haryana – respondent No.1 and issuance of a writ in the nature of mandamus directing the respondents to uphold the partition proceedings etc. and not to implement the order dated 3.3.2020, passed by respondent No.1 during the pendency of the present writ petition etc.

I have heard learned counsel for the petitioners besides going through the case file.

A perusal of the record goes to show that petitioners are mainly aggrieved by the order dated 3.3.2020 passed by the Financial Commissioner, Haryana, vide which he had stayed the operation of order dated 7.2.2020 passed by AC Ist Grade, Pehowa. Vide this very order, notice was directed to be issued to the parties including the present petitioners and lower court record was directed to be summoned for 20.5.2020. That means the order under challenge has not attained finality and it is just an ex parte interim order which can be reviewed or set aside by the Financial Commissioner, Haryana, if deemed so proper, on hearing the respondents there, i.e. the present petitioners.

Learned counsel for the writ petitioners submits that the present petitioners had appeared there but on account of prevailing situation of COVID-19, no effective proceedings could take place.

May it be so, but the fact remains that the proper recourse for the writ petitioners is to approach the Financial Commissioner,

Haryana, Chandigarh, seeking setting aside of the ex parte stay order. Learned financial Commissioner, Haryana, Chandigarh, is expected to consider the request and dispose of the matter with regard to the grant of stay expeditiously. If the petitioners still feel aggrieved, then they may seek any judicial remedy available to them under law. Before that the writ petition cannot be taken up for hearing.

Accordingly, the present writ petition is disposed of, relegating the petitioners to the remedy of approaching the Financial Commissioner, Haryana, Chandigarh, by moving an application for vacation of stay. The Financial Commissioner, concerned shall make earnest efforts to decide the said application expeditiously, preferably within a period of one month from today.

8.6.2020
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No