

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

115

CWP-9256-2020

Date of decision: 29.07.2020

Bhushan Parkash and others

.....Petitioners

Versus

Financial Commissioner, Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. C.B. Goel, Advocate for the petitioners.

ARUN KUMAR TYAGI, J (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioners have filed the present writ petition under Articles 226 and 227 of the Constitution of India for issuance of a writ in the nature of certiorari or any other appropriate writ order or direction quashing the order dated 05.10.2016 (Annexure P-4) passed by respondent No.2-Assistant Collector, 2nd Grade, Bilaspur and subsequent orders passed in pursuance thereof and also for issuance of a writ of prohibition restraining the respondents from interfering with the possession of the petitioners till the decision of their revision petition by respondent No.1-Financial Commissioner, Haryana.

Briefly stated, the petition has been filed on the grounds that the petitioners and respondents No.3 and 4 along with wives of respondents No.3 and 4 are co-owners/co-sharers in land described in

para No.2 of the petition situated in village Machhrauli, Tehsil Bilaspur, District Yamuna Nagar. Application for partition of the above said land was filed by respondents No.3 and 4 who, for the reasons best known to them, did not include the other agricultural land situated in the same village. The application was dismissed in default vide order dated 23.12.2014. The Assistant Collector, 2nd Grade, Bilaspur vide order dated 20.01.2015 directed registration of the application for restoration, summoning of the original file and issuance of notice to the respondents but the order does not bear signatures of the Presiding Officer. The case was adjourned to various dates vide orders extracted in the petition. The case was repeatedly adjourned for filing of the written statement till 05.10.2016 when filing of written statement was dispensed with on the ground that the respondents had been proceeded against ex-parte earlier vide orders dated 19.02.2015, 31.03.2015 and 15.06.2015. Order dated 05.10.2016 also does not bear signatures of the Presiding Officer. Order dated 05.10.2016, suffers from patent illegality. Deputy Commissioner-cum-Collector, Yamuna Nagar transferred the case to the Court of Naib Tehsildar, Bilaspur vide memo dated 05.07.2017 who without issuing any notice to the petitioners, ordered for awaiting of the Naksha Alif. The petitioners filed ROR No.38 of 2019-20 titled as 'Bhushan Parkash and others Vs. Ajay Kumar and others' in the Court of Financial Commissioner, Haryana with an application for stay of operation of the impugned order dated 18.07.2019 passed by respondent No.2-Assistant Collector, 2nd Grade, Bilaspur. The revision petition was admitted and notice of stay application was issued. Service was also completed but no order has

been passed on the stay application so far.

Learned counsel for the petitioners has submitted that learned Financial Commissioner, Haryana is not holding the Court due to pandemic of Covid-19 whereas respondents No.3 and 4 are pursuing the remedy of delivery of possession in view of the passing of order and issuance of Sanad Taksim. The petitioners will suffer irreparable loss in case their dispossession from the land in dispute is ordered as their revision petition would become infructuous. Therefore, direction may be given to learned Financial Commissioner, Haryana to dispose of the stay application as well as the revision petition expeditiously and till then, dispossession of the petitioners may be stayed.

Notice of motion restricted to respondents No.1 and 2 only.

Pursuant to supply of advance copy, Mr. Sharad Aggarwal, AAG, Haryana has appeared and accepted notice on behalf of respondents No.1 and 2.

Learned State counsel for respondents No.1 and 2 has no objection in case direction for expeditious disposal of the stay application and revision petition by learned Financial Commissioner, Haryana is issued.

In view of the facts and circumstances of the case, the petition is disposed of with direction to respondent No.1-Financial Commissioner, Haryana to dispose of stay application filed by the petitioners along with the above said revision petition within 15 days from the date of receipt of copy of this order and also to dispose of the revision petition expeditiously preferably within a period of three months from the date of receipt of copy of this order and till decision of

the stay application by respondent No.1-Financial Commissioner, Haryana, status quo regarding possession over the land in question as prevailing today shall be maintained.

29.07.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No