

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

(PROCEEDINGS THROUGH V.C.)

CWP-17065-2021

Date of decision: 02.09.2021

Gurdeep Singh and others

..... Petitioners

Versus

Joint Development Commissioner and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ASHOK KUMAR VERMA**

PRESENT: Mr. Sherry K. Singla, Advocate for the petitioners.

Mr. Avinit Avasthi, AAG, Punjab.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court with grievance against the order dated 09.03.2021 (Annexure P-2) of eviction passed by the Collector (Panchayat Land)-cum-DDPO, Patiala-respondent No. 2 passed under Section 7(2) of the Punjab Village Common Lands (Regulation) Act, 1961 (for short-'the Act').

Petitioners have filed appeal before the Joint Development Commissioner (Exercising the Powers of Commissioner) under the Act, Rural Development and Panchayat Department-respondent No. 1, along with an application for interim relief under Order 39 Rules 1 and 2 CPC. Although, notice has been issued to the respondents but the application has not been dealt with by the Appellate Authority. On 02.06.2021, an

interim order, Annexure P-6 was passed in favour of the petitioners by hearing the parties. The same was ordered to be continued up to 16.06.2021. Thereafter, the case has not been taken up for hearing because of which the interim order has not been extended. Even an application dated 24.06.2021 (Annexure P-7) for preponment of the appeal and extension of status-quo order dated 16.06.2021, has not yet been decided. Rather, the same also has not been taken up for consideration. That being the position, the respondents are proceeding to make efforts to take possession of the land in question. Even symbolic possession of a part of land has been delivered to the Gram Panchayat, vide order dated 01.07.2021 (Annexure P-8) by Tehsildar, Samana. Learned counsel contends that the physical possession of the land continues with the petitioners.

Learned counsel for the State of Punjab, when the case was initially taken up for hearing in the urgent list, had sought time to seek instructions from the Appellate Authority. Now, when the case has been taken up at the end of the list, he informs the Court that the Joint Development Commissioner-respondent No. 1 is on leave and, therefore, would not be holding Court today. He further informs that the appeal preferred by the petitioners and other cases are likely to be adjourned for 08.09.2021.

Be that as it may, we in the given facts and circumstances of the present case, dispose of the present writ petition observing that the Appellate Authority shall make an endeavour to decide the appeal at the earliest and in any case, decide the application under Order 39 Rules 1

and 2 CPC, preferred by the petitioners on the next date of hearing.

Till then status-quo with regard to possession as it exists on today qua the land in question, shall be maintained by the parties.

It is made clear that this order which has been passed by this Court today is only an interim arrangement in the peculiar facts and circumstances of the present case and it should not be construed that the said order has been passed on merits of the case as the same has not been considered by the Court. The Appellate Authority shall be free to pass an appropriate order, in accordance with law, on merits, on the application for stay as preferred by the petitioners and pending before it.

This order will only operate till the order is passed by the Appellate Authority.

(AUGUSTINE GEORGE MASIH)
JUDGE

September 02, 2021
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No