

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

CWP-140-2020

Date of decision : 06.08.2021

Niyotri and another

... Petitioners

Versus

State of Haryana and others

... Respondents

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

Present: Mr.Robin Dutt, Advocate
for the petitioners.

Mr.Raman Sharma, Addl.A.G. Haryana.

Mr.R.S.Budhwar, Advocate
for respondent no.5.

(Proceedings through Video Conferencing)

AUGUSTINE GEORGE MASIH, J.(ORAL)

Challenge in this petition is to the order dated 11.12.2015 (Annexure P-4) passed by the Assistant Collector Ist Grade-cum-District Development and Panchayat Officer, Yamuna Nagar-respondent no.4, order dated 24.01.2019 (Annexure P-6) passed by the Collector, Yamuna Nagar-respondent no.3 and order dated 23.07.2019 (Annexure P-9) passed by the Commissioner, Ambala Division-respondent no.2 whereby application which was moved by the Gram Panchayat Chhillour, Tehsil Jagadhri, District Yamuna Nagar-respondent no.5, for eviction of the petitioners has been allowed. Appeal against which preferred by the petitioners has been dismissed including the revision petition.

It is the contention of learned counsel for the petitioners that the factum of the aspect and question relating to the title which has been raised, with regard to the land in question, by the petitioners being

sub-judice was brought to the notice of the Court at the time when the order of eviction was passed by the Assistant Collector Ist Grade on 11.12.2015. Despite the said fact being brought to the notice of the Court, the said authority instead of adjourning the proceedings sine die in the light of the provision of Section 7 (1) & (2) proceeded to decide the said aspect of the matter by ordering eviction of the petitioners. Counsel contends that the statutory provision itself provides for such a procedure to be followed and the non-compliance thereof and violation of which by the Collector cannot sustain. Similar is the position asserted with regard to the order passed by the appellate authority as well as the revisional authority. Counsel thus contends that the orders passed by the Courts below cannot sustain and deserve to be set aside.

We have considered the submissions made by counsel for the petitioners and with his assistance have gone through the impugned order.

Perusal of the order passed by the Assistant Collector Ist Grade-cum-District Development and Panchayat Officer, Yamuna Nagar, dated 11.12.2015 (Annexure P-4) would show that at the time when the decision was rendered on an application moved under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961 (in short 'the Act') by the Gram Panchayat, the application/petition which was moved by the petitioners under Section 13-A of the Act for declaring them as owners of the land in question stood dismissed on 20.12.2012 and the appeal against which was also dismissed on 04.09.2015 by the learned Commissioner, Ambala.

The only plea which has been raised by counsel for the petitioners before us is that writ petition challenging these orders was

pending before this Court after dismissal of the revision petition by the Financial Commissioner on 02.12.2020 but this plea cannot be accepted as on the relevant date, when the order of eviction was passed by the competent authority, there was an order passed by not only the initial authority but the appellate authority as well rejecting the claim of ownership of the petitioners on the land in question. That being the position, mere pendency of an issue before a writ Court or a revisional Court where there is no stay granted with regard to possession, cannot be a ground for keeping the proceedings pending for all time to come. The pendency of the matter before the higher Court specially when a declaration sought for has been declined by the competent Court would not be an impediment for passing an order of eviction under Section 7 of the Punjab Village Common Lands (Regulation) Act, 1961.

We do not find any ground for interfering in the impugned orders which have been passed by the authorities. The order as passed by the Assistant Collector Ist Grade dated 11.12.2015 (Annexure P-4) being in accordance with law do not call for any interference including subsequent orders passed by the appellate and the revisional authorities.

The writ petition, therefore, stands dismissed.

(AUGUSTINE GEORGE MASHI)
JUDGE

(ASHOK KUMAR VERMA)
JUDGE

August 06, 2021
I.S

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