

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

113

CWP-17121-2022

Date of Decision: August 05, 2022

SUKHWINDER SINGH AND ANR

...PETITIONERS

Versus

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Divyam Singh, Advocate,
for Mr. Rakesh Gupta, Advocate,
for the petitioners.

AUGUSTINE GEORGE MASIH, J.(ORAL)

It is the contention of the learned counsel for the petitioners that against the order of eviction passed by the authorities, petitioners have preferred an appeal before respondent No. 2-Joint Development Commissioner, Department of Rural Development and Panchayats (exercising the powers of Commissioner under the Punjab Village Common Lands (Regulation) Act, 1961 under Section 11 (2) of the said Act along with the stay application, in which notice was issued initially on 10.11.2021 for 01.12.2021. Since then, the Court has not been held of the said authority, as the case was adjourned to 23.02.2022 and then to 13.04.2022, 22.06.2022 and 11.07.2022. The next date of hearing before the said authority is 08.08.2022. In the interregnum, warrant of possession had been issued on 21.07.2022 wherein possession was to be taken on 05.08.2022 (Annexure P-4).

Counsel for the petitioners contends that the appeal would be rendered infructuous in case the possession is taken by the respondents without there being any effective hearing of their appeal and no decision on the application for stay. He, therefore, asserts that the protection with regard to possession of the petitioners be granted by the Court till the next date of hearing and in any case, till a decision is taken on the application for stay which has been preferred along with the appeal.

Notice of motion.

On the asking of the Court, Mr. S.P.S.Tinna, Addl. A.G. Punjab, accepts notice on behalf of respondents No. 1 to 8.

Mr. Karminder Singh, Advocate, along with Mr. P.S.Walia, Advocate, has filed Power of Attorney on behalf of respondent No. 9-Gram Panchayat, Village Bari, Tehsil Dhuri, District Sangrur, which is taken on record.

Although the counsel for respondent No. 9 has sought time to file reply to the writ petition but the same would not be required keeping in view the fact that we do not intend to go into the merits of the case rather pass an order that the possession of the petitioners be kept intact till a decision is taken by the Appellate Authority on the stay application preferred by the petitioners along with the appeal keeping in view the fact that respondent No. 2-Joint Development Commissioner is not holding the Court since 01.12.2021.

In the light of the above observations, we dispose of the writ petition with a direction to respondent No. 2-Joint Development Commissioner, Department of Rural Development and Panchayats (exercising the powers of Commissioner under the Punjab Village Common

Lands (Regulation) Act, 1961, to decide the application for stay on 08.08.2022 and in case the same is not decided on the said date, efforts be made to decide the same at the earliest but in any case, not beyond a period of three weeks.

Till a decision is taken on the application for stay preferred along with the appeal, status quo with regard to possession, as it exists today, shall be maintained provided no adjournment is sought by the counsel for the petitioner.

(AUGUSTINE GEORGE MASIH)
JUDGE

August 05, 2022
pj

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No