

CWP-5711-2023

Date of Decision : 20.03.2023

KARAM SINGH AND ORS.

.....Petitioners

Versus

STATE OF HARYANA AND OTHERS

....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**Present : Mr. Jai Parkash Dhull, Advocate
for the petitioners.

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

SURESHWAR THAKUR, J. (Oral)

1. The present petitioners are aggrieved from Annexure P-4, and, Annexure P-5, whereby the Sarpanch of the Gram Panchayat concerned, through exercising the powers under Section 24 (1) of the Haryana Panchayati Raj Act, 1994, has issued notice upon the respondents, to remove the encroachments, within seven days of the said notice.

2. Before proceeding to pronounce on the validity of the notices (supra), which have been served upon the present petitioners, it is deemed imperative to refer to the order drawn by this Court, on 05.03.2009, in CWP-10692 of 2007.

3. The operative portion of the verdict drawn by this Court is extracted as under:-

“The petitioners could not appear before the Assistant Collector where the application under Section 7 was filed against them and were proceeded ex-parte. The order of his ejectment was accordingly passed on 15.7.2004. The petitioners filed an appeal against the same before the Collector who dismissed the same. The petitioners remained unsuccessful in the revision as well and that is how he has filed the writ petition before this Court. Since the Panchayat has already passed a resolution in favour of the petitioners and it has been found that it will be useful for the Panchayat to sell this land at the market price to the petitioners, the case of the petitioners deserves to be considered in terms of the

policy instructions issued on the subject. Accordingly the direction issued to the State government to consider the resolution passed by the Gram Panchayat and the case of the petitioners for allotment of this land in terms of the policy instructions. The State would be at liberty to take any independent decision. In case, the State decides to permit the Gram Panchayat to sell this land to the petitioners, they shall be asked to pay the market price thereof, which shall be also determined by the competent State Officer under the policy....”

4. From a reading of the above extracted portion of the relevant order, it becomes crystal clear, that this Court had made a direction, upon the Competent Authority, to consider the resolution, as made by the panchayat concerned, in favour of the petitioners, with a proposal therein, for alienating the petition lands in favour of the present petitioners, as well as, the other co-petitioners.

5. Though in pursuance to the said directions, the present petitioners, as revealed by Annexure P-3, made an application to the Competent Authority. However, yet no decision has been drawn thereons. Therefore, unless a decision was drawn on the said application, it was not required, that the concurrently made orders of eviction passed against the petitioners, be put to their completest and efficacious execution. However, today, also it is not forthrightly known to this Court, whether the Competent Authority has made any decision adversial to the petitioners, on Annexure P-3. If a decision adversial to the petitioners on Annexure P-3, has been recorded by the Competent Authority, thereupon, it is open to the petitioners to challenge the same through theirs constituting in a writ petition. However, if no decision, yet has been made thereons, thereupon, the Competent Authority, is directed to make a speaking decision thereons, but after hearing all affected persons concerned, and, positively within four weeks from today.

6. In aftermath, till a challenge is made to any adversial decision, if already made on Annexure P-3, thereupon the parties are directed to maintain status-quo in respect of the petition lands. Moreover, if no decision yet has been made on Annexure P-3, by the Competent Authority, thereupon, the latter is directed as stated (supra), to make a decision thereons within one month from today but after hearing all

affected concerned.

7. Moreover, as stated (supra), in case a decision adversial to the petitioners is made, on Annexure P-3, thereupon, it is open to the petitioners to institute thereagainst a writ petition before this Court, and, till the institution of the said petition before this Court, the parties are directed to maintain status quo in respect of the petition lands.

8. Disposed of.

(SURESHWAR THAKUR)
JUDGE

(KULDEEP TIWARI)
JUDGE

20.03.2023

kavneet singh

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