

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

CWP-06-2024

Date of Decision : 03.01.2024

KEHAR SINGH

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

**CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI
HON'BLE MS. JUSTICE SUDEEPTI SHARMA**

Present : Mr. Divyam Singh, Advocate
for the petitioner.

Mr. S.S.Pannu, Addl. A.G., Haryana.

KULDEEP TIWARI. J.,(Oral)

1. Through the instant writ petition, petitioner seeks issuance of a writ in the nature of 'mandamus' for staying the operation and implementation of the impugned order dated 17.11.2023 (Annexure P-1) or in alternative restraining the respondents from dispossessing him from the land in question during the pendency of appeal alongwith the stay application (Annexure P-2) preferred before respondent no.2-learned Collector, District Kaithal.

2. Learned counsel for the petitioner submits that the main grievance of the petitioner hinges upon no decision being taken on his aforesaid stay application filed alongwith statutory appeal, before the learned appellate authority i.e. learned Collector, Kaithal (respondent no.2).

3. An application under Section 7(2) of the Punjab Village

Common Lands (Regulation) Act, 1961, was filed (against petitioner) collectively by private respondent no.6 as well as by respondent no.5-Gram Panchayat (herein) and that application was allowed by the learned Assistant Collector 1st Grade and District Development and Panchayat Officer, Kaithal, vide order dated 17.11.2023 (Annexure P-1) and ordered the eviction of the petitioner from the land in question.

4. The drawing of eviction order caused grievance to the petitioner and led him to file a statutory appeal thereagainst before respondent no.2-learned Collector, Kaithal, on dated 26.12.2023. Alongwith the said statutory appeal, the petitioner also preferred an application for grant of interim stay. However, the authority concerned has not yet decided his application for grant of interim stay, whereas respondent no.5-Gram Panchayat, Village Sakra, is about to execute the eviction order of the learned Assistant Collector 1st Grade and District Development and Panchayat Officer, Kaithal (*supra*).

5. Learned counsel for the petitioner submits that, in case, the petitioner's application for interim stay is not decided and the eviction order (*supra*) is brought to execution, then the whole purpose of filing the statutory appeal would be defeated.

6. Notice of motion to respondents no.1 to 4 only.

7. Mr. S.S.Pannu, Addl. AG, Haryana, accepts notice on behalf of respondents no.1 to 4.

8. At this stage, since an innocuous prayer has been made by learned counsel for the petitioner, this Court deems it appropriate that rather than issuing notice to respondents no.5 and 6, a direction is issued

to respondent no.2-learned Collector, District Karnal, to positively decide the interim stay application within 15 days from the date of receipt of a certified copy of this order and only till then, operation of the impugned order passed by learned Assistant Collector 1st Grade and District Development and Panchayat Officer, Kaithal (*supra*), shall remain stayed.

9. It is further made clear that respondent no.2 shall decide the aforesaid application for interim stay without getting any influence from the observations made hereinabove by this Court.

10. Disposed of accordingly.

January 03, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No