

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

CWP-12-2024

Date of Decision : **03.01.2024**

EAKBAL SINGH AND OTHERS

.....Petitioners

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondents

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

Present : Mr. Ishnoor Singh, Advocate
for the petitioners.

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

KULDEEP TIWARI. J.,(Oral)

1. Through the instant writ petition, petitioners seek 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) during the pendency of appeal and stay application dated 18.12.2023 (Annexure P-2).

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

3. An application under Section 7 (1 and 2) of the Punjab Village Common Lands (Regulation) Act, 1961, was filed against petitioners by private respondent no.5 as well as by respondent no.4-

Gram Panchayat collectively and that application was allowed by the learned Assistant Collector 1st Grade-cum-Sub Divisional Officer (Civil), Assandh, District Karnal, vide order dated 17.11.2023 (Annexure P-1) and ordered the eviction of the petitioners from the possession of the land in question.

4. The drawing of eviction order caused grievance to the petitioners and led them to file a statutory appeal thereagainst before respondent no.2-learned Collector, Karnal, on dated 18.12.2023 and alongwith the said statutory appeal, they also preferred an application for grant of interim stay. However, the authority concerned has not yet decided the application for grant of interim stay, whereas, respondent no.4-Gram Panchayat, Village Anchala, is about to execute the eviction order of the learned Assistant Collector 1st Grade-cum-Sub Divisional Officer (Civil), Assandh, District Karnal (*supra*).

5. Learned counsel for the petitioners submits that, in case, the application of petitioners 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 3 only

7. Mr. S.S.Pannu, Addl. A.G., Haryana, accepts notice on behalf of respondents no.1 to 3.

8. At this stage, since an innocuous prayer has been made by learned counsel for the petitioners, this Court deems it appropriate that rather than issuing notice to respondents no.4 and 5, a direction is issued to respondent no.2-learned Collector, District Karnal, to positively decide

the aforesaid 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 the learned Assistant Collector 1st Grade-cum-Sub Divisional Officer (Civil), Assandh, District Karnal (*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