

CWP No.16089 of 2015

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

CWP No.16089 of 2015
Date of decision: 21.08.2015

Kulwant Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Pardeep Bajaj, Advocate, for the petitioner.

PARAMJEET SINGH, J. (ORAL)

Instant writ petition under Article 226 of the Constitution of India has been filed for issuance of a writ in the nature of *certiorari* for setting aside the order dated 10.01.2012 (Annexure P-8) passed by Assistant Collector, Grade-I, Ludhiana whereby suit for partition filed by respondent No.3 has been allowed and for setting aside *sanad takseem* dated 29.08.2012 (Annexure P-10).

I have heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner vehemently contended that *sanad takseem* has been prepared on 29.08.2012. All the proceedings initiated against him are *ex parte*. He was not in India when proceedings

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commenced and ended. Learned counsel for the petitioner candidly admitted that petitioner wrongly filed a civil suit, which has been dismissed for want of jurisdiction.

Be that as it may, fact remains that if the proceedings have been initiated without effecting proper service upon the petitioner, petitioner has remedy to move an appropriate application for setting aside entire *ex parte* proceedings and approach Assistant Collector Ist Grade, Ludhiana, for this purpose. While deciding the writ petition, this Court is not to appreciate whether petitioner was proceeded against *ex parte* correctly or not. This can only be done by the Court of fact.

At this stage, learned counsel for the petitioner submits that he may be relegated to alternative remedy available to him.

In view of above, this Court is of the view that petitioner can approach the Assistant Collector Ist Grade, Ludhiana, who shall consider the fact of service upon the petitioner in accordance with law.

Disposed of with above observation.

(Paramjeet Singh)
Judge

August 21, 2015
R.S.