

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

LPA No. 1685 of 2015 (O&M)

DATE OF DECISION : 11.12.2015

Jagar Singh and another

.... APPELLANTS

Versus

Financial Commissioner Revenue and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present : Mr. O.P. Goyal, Senior Advocate, with
Mr. K.S. Chahal, Advocate,
for the appellants.

* * *

SATISH KUMAR MITTAL, J. (Oral)

This intra-court appeal under Clause X of the Letters Patent has been filed against the order dated 24.09.2013 passed by the learned Single Judge, whereby the writ petition (CWP No. 610 of 1994) filed by the appellants was disposed of as having been rendered infructuous, while observing as under :-

*“At the time of issuing notice of motion on
17.01.1994, a Division Bench of this Court
passed the following orders :*

*“Relies upon the issuance of
notice of motion in CWP 13401-
1993.*

*Notice of motion for
14.2.1994.*

Dispossession stayed till further orders.”

*Learned counsel for the respondents No.2 to 6 has shown the copy of the order dated 17.02.1994, passed by a Division Bench of this Court in **CWP No. 13401 of 1993 (Smt. Amarjit Kaur etc. vs. Financial Commissioner Revenue, Punjab etc.)**. The order dated 17.02.1994, passed in CWP No. 13401 of 1993 reads as under :*

“A compromise has been placed on record. A sum of Rs.50,000/- has been paid in Court as compensation money. The necessary result of the compromise is that no further proceedings need be gone into and the purchase application stands allowed.

Learned counsel for the petitioners submits that he may be permitted to withdraw the present writ petition.

We order accordingly.”

Learned counsel for the private respondents further submits that during the pendency of this writ petition, their purchase application was allowed and so far as the possession is concerned, they had been continuing in the old and settled possession. He further submits that once their purchase application has been allowed by the competent authority, the present petition does not survive.

Learned counsel for the petitioner could not deny the above said factual aspect of the matter.

In view of the above, the present writ petition is ordered to be disposed of as having been rendered infructuous.

However, it is made clear that if the petitioners still feel aggrieved, they would be at liberty to seek damages from their vendors.

Disposed of accordingly.”

During the course of hearing, it has not been disputed that the appellants have not challenged the purchase order, which is alleged to have been passed on the basis of compromise, wherein the appellants were not party. In view of the purchase order passed in favour of the respondents in view of their being in possession of the property as tenants, they alleged to have become owners of the property, the writ petition has rightly been disposed of as having been rendered infructuous. However, learned counsel for the appellants prays that the appellants be granted the opportunity to challenge the said purchase order, which according to them is illegal and contrary to law, in the appropriate proceedings. He further prays that any observation made by the learned Single Judge while disposing of the writ petition may not come in the way of the appellants.

We are of the opinion that the prayer made by learned counsel for the appellants is reasonable. Accordingly, this appeal is dismissed with liberty to the appellants to challenge the purchase order in accordance with

law; and dismissal of their writ petition as infructuous will not come in their way, while challenging the purchase order. If there is a limitation to challenge the purchase order, it will be open for the appellants to move an application for condonation of delay, which shall be considered sympathetically, in view of the time consumed in these proceedings.

(SATISH KUMAR MITTAL)
JUDGE

December 11, 2015
ndj

(SHEKHER DHAWAN)
JUDGE