IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No.545 of 2015 (O&M)
Date of Decision: May 18, 2015

Gorkha Ram

.....Appellant

versus

The Assistant Collector, IInd Grade, Charki Dadri and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.R.S.Sangwan, Advocate, for the appellant.

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1. Whether Reporters of 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?

Surya Kant, J. (Oral)

This letters patent appeal is directed against the orders dated 19.08.2014 and 06.01.2015 whereby learned Single Judge dismissed the appellant's writ petition as well as review application and upheld the orders passed by Revenue authorities in partition proceedings.

We have heard learned counsel for the appellant and gone through the record.

It is revealed from the order passed by the Assistant Collector, 2nd Grade, Charkhi Dadri (P-1) that partition proceedings in respect of the land in question were initiated way back in the year 2003. The appellant was one of the contesting respondents. The order reveals that service was effected upon the appellant and other contesting respondents through registered cover (RC) as well as substituted service

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through Munadi (proclamation). However, the appellant and some other respondents chose not to appear and were proceeded ex-parte. The partition proceedings in due course of time were finalized by following the prescribed procedure.

The only plea taken by the appellant before the Appellate and Revisional authorities was that no service was effected on him. The Commissioner, Hisar Division, vide order dated 30.07.2010 (P-8) rejected the plea observing that summons were sent at the first instance and thereafter registered letters were sent besides Munadi (proclamation).

The aforesaid finding of fact has been upheld by learned Single Judge.

As regard to any serious prejudice caused to the appellant, it may be noticed that the appellant had earlier filed letters patent appeal soon after dismissal of his writ petition which was dismissed by this Court on 18.09.2014 with liberty to seek review before the learned Single Judge on the plea that 'quality of land' was not kept in view or that his co-sharers have been given better land as compared to him.

The appellant filed review application in terms of the above-stated liberty but his prayer has been declined by learned Single judge after referring to a site-plan and taking notice of the fact that the appellant in fact has got bigger chunk of land abutting the main road which obviously has better potentiality.

In the instant second letters patent appeal, the appellant has not placed on record the site-plan which he relied upon before the learned Single Judge. It is, however, not disputed by his learned counsel that part of the land which has fallen to the appellant's share abuts the main road.

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Taking into consideration the fact that the appellant himself has decided not to contest the partition proceedings despite duly served and no serious prejudice has been caused to him, we decline to interfere in the impugned order.

Dismissed.

[SURYA KANT]
JUDGE

May 18, 2015
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[P.B.BAJANTHRI]
JUDGE

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CM No.1100 of 2015 in
LPA No.545 of 2015

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Gorkha Ram versus The Assistant Collector, IInd Grader, Charki

Dadri and others

Present : Mr.R.S.Sangwan, Advocate,
for the applicant-appellant.

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Since the main appeal is decided on merits, no separate order is required to be passed on this application for condonation of 36 days' delay in filing the appeal.

(**SURYA KANT)**
JUDGE

May 18, 2015 **(P.B.BAJANTHRI)**
mohinder **JUDGE**

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