

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.748 of 2015 (O&M)

Date of Decision: May 14, 2015

Bhalle Ram and others

.....Appellants

versus

State of Haryana and others

.....Respondents

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

Present: Mr.Manvinder Singh Dalal, Advocate,
for the appellants.

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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 impugns the order dated 30.03.2015 whereby learned Single Judge has dismissed the appellants' writ petition in which the order passed by the Financial Commissioner, Haryana, directing the continuation of partition proceedings, was challenged.

The facts giving rise to the controversy may be briefly noticed.

The appellants are said to have purchased land measuring 38 kanal 7 marlas vide sale deed dated 04.06.1981 from seven persons, all of whom were co-sharers to the extent of 1/7th share each. Two co-sharers, however, were not present and did not sign the sale deed. In the year 2001, the appellants filed a civil suit for declaration to the effect that they are owners in possession of the entire land including share of two

co-sharers who were absent at the time of execution of the sale deed. The case of the appellants is that all the seven co-sharers (previous owners) admitted the appellants' claim in the written statement but the civil suit was dismissed on the ground that it was filed to evade the registration fee.

With the change of time, two co-sharers/their legal heirs, who had not executed the sale deed dated 04.06.1981, have sold their respective shares vide registered sale deeds dated 18.10.2011 and 24.01.2012. Their vendees have sought the partition proceedings. As the appellants objected to those partition proceedings on the ground that they are absolute owners in possession of the entire land, that the Financial Commissioner directed continuation of the partition proceedings on the basis of the title possessed by the vendees.

Learned Single Judge has upheld the order passed by Financial Commissioner, Haryana.

We have heard learned counsel for the appellants at a considerable length who very fairly admits that in the given circumstances, the partition proceedings may continue but the appellants have meanwhile filed a suit for declaration and to set-aside the above-mentioned subsequent sale deeds, hence the proceedings in the civil suit need to be expedited so that it can be decided before culmination of the partition proceedings.

In our considered view, the appellants, for the aforesaid purpose, can move an application before the civil court to expedite the proceedings in the civil suit with an endeavour to decide the same before the finalization of partition proceedings. In case the grievance of the appellants is not effectively redressed, they may approach the supervisory

court through appropriate proceedings.

With liberty afore-mentioned, the appeal stands dismissed.

[SURYA KANT]
JUDGE

May 14, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE