

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

C.W.P. No.10111 of 2015 (O&M)
DATE OF DECISION : 8.2.2016

Gagandeep Kaur

PETITIONER

VERSUS

Assistant Collector Ist Grade and others

RESPONDENTS

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

1. Whether reporters of Local Newspapers 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:- Shri Manish Kumar Singla, Advocate for the petitioner.

Shri Anant Kataria, D.A.G. Punjab.

Shri A.K.Khunger, Advocate for respondents 23 and 24.

Shri H.R.Bhardwaj, Advocate for respondents 3 and 4.

MAHESH GROVER, J.

The petitioner impugns the order dated 13.2.2013 by which the mode of partition as proposed was accepted. Learned counsel for the petitioner states that on this very date it was discovered by the Assistant Collector Ist Grade that petitioner was a necessary party being owner of the same property which was the

subject matter of partition. She was thus impleaded on that very day and mode of partition was accepted without giving the petitioner an opportunity of hearing and to file objections. Subsequent to the order dated 13.2.2013, the Assistant Collector Ist Grade approved the partition and directed the file to be put up on 13.3.2013 for Naksha. It is thereafter that Naksha was prepared on 3.4.2013 which led to a challenge before the Commissioner, who remitted the matter back to the Collector for a decision afresh.

The grievance of the petitioner is limited. She states that the manner in which the petitioner was impleaded on the last date pursuant to the order dated 13.2.2013 accepting the mode of partition without giving the petitioner an opportunity of hearing and to file objections, has resulted in a serious prejudice to the case of the petitioner.

Learned counsel for the respondents state that they have no objection if the petitioner is permitted to file objections to the mode of partition to be considered by the competent authority.

After hearing the learned counsel for the parties, I am of the opinion that the Assistant Collector Ist Grade has acted with great haste. In matters of partition, the parties who are affected, should be given adequate opportunity to raise their issues regarding partition and denial of the same can result in serious prejudice to the parties. The right conferred upon the participants to the proceedings is therefore, valuable and cannot be subverted in the manner done by the Assistant Collector Ist Grade who merely gave lip service to the observance of the right as a mere formality. Consequently, the entire proceedings regarding partition of the land in question need to be determined afresh giving the parties an opportunity of hearing to have an effective participation.

The petition is therefore, accepted and the impugned order dated 13.2.2013 is set aside. The matter is remitted back to the Assistant Collector Ist

Grade to re-determine the whole issue by giving the parties an opportunity of hearing and to file objections.

February 8, 2016
GD

(MAHESH GROVER)
JUDGE