

CWP No.11530 of 2017

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.11530 of 2017

Date of decision:24.05.2017

Damanjeet Kaur

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Manohar Lall, Advocate, for the petitioner.

AMIT RAWAL J. (Oral)

Learned counsel for the petitioner *inter alia* contends that this Court, vide order dated 06.05.2016 had disposed of civil revision petition bearing No.3210 of 2016 titled as “Damanjit Kaur vs. State of Haryana and others”, wherein, it has been stated that the ejectment order was passed by respondent No.2 vide which the land owner was entitled to possession subject to allotment of 5 standard acres of land to respondents No.4 to 6, i.e., tenants. The aforementioned revision petition was disposed of by giving a direction to the respondents No.1 and 2 for taking appropriate action in identifying and declaring the land surplus for the purpose of allotment to respondents No.4 to 6 within a period of four months but no action has been taken. The prescribed authority filed an appeal along with an application for delay in the year 2017 against the order dated 03.12.2009, i.e., after a delay of 7 years. The application seeking condonation of delay has been allowed without issuing notice to other party and the impugned order has also been stayed. He further submits that she was not party in any of the proceedings.

Notice of motion.

Mr.Indresh Goel, Additional Advocate General, Haryana accepts notice on behalf of the respondents-State.

I have heard learned counsel for the parties and appraised the paper book. The impugned order dated 17.04.2017 reads as under:-

“File presented today. Arguments of appellant heard on the stay application. The appellant stated that the State of Haryana was not a party to the ejectment proceedings. Therefore, the order dated 03.12.2009 passed by the Assistant Collector Ist Grade Yamuna Nagar was not in the knowledge of the State. The respondent No.4 – Smt. Damnjit Kaur who purchased the land from the respondents No.5 to 12 has filed a civil revision before the Hon'ble High Court in which the Hon'ble High Court vide order dated 06.05.2016 directed the State to execute the order dated 03.12.2009. Thereafter, Smt. Damanjit Kaur has filed Contempt Petition No.3274 of 2016 before the Hon'ble High Court in which the State through FCR has been asked to file reply of the same. After filing the reply of the above mentioned Contempt Petition and perusal of the entire case file the aforesaid illegality and irregularity in the order dated 03.12.2009 passed by Assistant Collector Ist Grade Yamuna Nagar came to the knowledge of the appellant for the first time. Therefore, it has been decided to file the present appeal before this Hon'ble Court. And requested to condone the delay and stay the operation of the impugned order dated

03.12.2009.

After hearing the arguments of the appellant and considering the facts of the case, the application for condonation of delay is allowed in the interest of justice. In addition, I am of the opinion that execution of order dated 03.12.2009 may cause irreparable loss to the State. The impugned order dated 03.12.2009 is therefore stayed till the decision of the appeal. The lower Court file be summoned and notice to the respondents be issued for 27.04.2017.”

The relevant portion of the order dated 06.05.2016 passed in CR No.3210 of 2016 reads as under:-

The present revision petition is disposed of with a direction to respondent Nos.1 and 2 to comply with the directions aforementioned and make efforts in identifying and declaring the land surplus for the purpose of allotment to respondent Nos. 4 to 6 within a reasonable time preferably within a period of four months. It is expected that the aforementioned exercise should be done within the aforementioned period as already more than seven years had lapsed after passing of the order dated 3.12.2009.

The revision petition in aforementioned terms stands disposed of.”

It is strange that despite this Court had issued aforementioned directions instead of complying with the same, appeal has been preferred

accompanied by an application seeking condonation of delay which has been allowed without issuing notice of motion to other party and operation of the impugned order has been stayed. Such an act on behalf of the Collector is not only aberrative but repugnant too and not less than contemptuous. It appears that the Collector is not aware of the principles of natural justice and procedure to be followed while entertaining the appeals, though must have imparted the procedure during the training. No person can be rendered un-heard and the manner and mode in which the application has been decided is totally un-known to the procedure.

In view of the aforementioned observations, the impugned order is hereby set aside. The Collector shall decide the appeal preferred under Section 24 of the Punjab Security of Land Tenures Act 1953 after affording the opportunity of hearing to the applicant and the respondents therein to file reply and thereafter, decide the same in accordance with law as expeditiously as possible preferably within a period of four months from the date of receipt of a certified copy of this order.

Mr. Indersh Goel, has assured that the Collector shall follow the procedure of principles of natural justice after affording the opportunity of being heard to other party particularly in the application seeking condonation of delay, much less in appeal.

Accordingly, the writ petition is allowed.

May 24, 2017
savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No