

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.17116 of 2016 (O&M)
Date of decision:28.04.2017

S.K.Kaushal

... Petitioner

Vs.

The District Bar Association (DBA) Ambala and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Petitioner-in-person.

Mrs. Kiran Bala Jain, Advocate
for respondent No.1.

Mr. Indresh Goel, Addl.A.G.Haryana.

AMIT RAWAL J.

The petitioner has approached this Court by seeking following relief :-

“Civil Writ Petition under Article 226/227 read with Articles 14 and 300A of the Constitution of India for the issuance of a writ in nature of certiorari to quash the impugned order/notices of the respondent no.1, order no.5022/DBA dated 26.02.2016 (Annexure P-8), seize petitioner's lawyer chamber no.S104 and dismember him from the membership of the District Bar Association, Ambala conveyed vide the respondent no.1 application dated 15.03.2016 (Annexure P-12) under Order 7 Rule 11 CPC without show cause, without the authority of law, against the rule of audi-al-tram partam without jurisdiction.

AND

Against the auction of his seized chamber no.S104, vide auction notice dated 4.8.2016 (Annexure P-16).

AND

Further praying for the issuances of appropriate directions order or writ especially in the nature of mandamus directing the respondents to restore petitioner's membership and his lawyer's chamber and grant stay against the said auction on 23.8.2016 in the interest of justice.

AND

Any other writ, order or direction to which this Hon'ble Court may deem fit and appropriate under the law equality and good conscious may please also be issued against the respondents, in favour of the petitioner.”

on the premise that he being legal practitioner, bearing registration no.P-304/1988 after having rendered 35 years of service in Army. It is conceded case of the petitioner that on 19.12.2011, he had filed a civil suit for mandatory injunction against respondent no.1– The District Bar Association, Ambala seeking allotment of chamber on the ground floor on the premise of his old age and other disabilities yet without issuing show-cause-notice, the District Bar Association had sold the aforementioned chamber in open auction. Many applications in the aforementioned pending suit have been filed. Even the petitioner had earlier approached this Court by filing a Civil Revision Petition bearing No.610 of 2012 seeking issuance of direction to the trial Court for deciding his stay application and as well as

for production of documents which was disposed of, vide order dated 25.02.2012 (Annexure P-1). The petitioner had paid District Bar Association subscription upto 2016, vide receipt no.14520 dated 22.01.2016 (Annexure P-3). He was flabbergasted to receive a notice dated 26.02.2016 (Annexure P-8) vide which he was informed that the aforementioned allotment was cancelled. The auction aforesaid was conducted later on. Even respondents had moved an application under Order 7 Rule 11 of Code of Civil Procedure, for rejection of the plaint which is stated to be pending adjudication and thus, urges this Court for granting the aforementioned relief.

This Court, vide order dated 18.03.2017 had allowed the civil miscellaneous application moved by respondent No.1 for placing on record the documents, Annexures R-1 to R-8.

Mrs. Kiran Bala Jain, learned counsel appearing on behalf of respondent No.1 has drawn the attention of this Court to the contents of the aforesaid application indicating of the fact that writ petition is not maintainable on the premise that civil suit is already pending. Several interim applications have been filed which were dismissed. The revision petition against the aforementioned order has also been dismissed. The application seeking stay of the auction has been dismissed, vide order dated 12.08.2016 which has never been challenged. The petitioner is in habit of filing of frivolous litigation and had not even spared his brothers, sisters and nephews. All the chambers have been occupied by the practicing lawyers and not even a single chamber is lying vacant. Even wife of petitioner had also lodged an FIR against her husband, vide FIR No.705 dated 30.07.2000

under Sections 498A/323/506 IPC, at Police Station Ambala Cantt. and thus, urges this Court for dismissal of the present writ petition.

I have heard petitioner-in-person, learned counsel for the respondents and appraised the paper book.

It is conceded position on record that civil suit is pending. The suit had been filed in the year 2001, whereas, chamber was allotted to the petitioner on 15.06.2011. His membership had been cancelled on 26.02.2016 (Annexure P-8) and before that vide order dated 01.02.2016 (Annexure P-4), he was issued a show-cause-notice, thus, argument of petitioner-in-person for not complying with the principle of *audi-al-tram partam* is totally fallacious. This Court called upon to Mr. V.K.Kaushal with regard to maintainability of the writ petition against the District Bar Association which is a Society registered under the Society Registration Act, is not being a State falling within the ambit of Article 12 of the Constitution of India but despite raising this question many time, Mr. Kaushal had not been able to answer the same except by referring to the questions of law framed in the writ petition which have been framed according to the wisdom and comprehension of the petitioner. Once the petitioner had already availed remedy, he can always seek interim relief regarding stay of the auction as noticed above which has already been rejected. He cannot indulge into forum shopping and continue with the parallel proceedings by knocking the door of this Court under Article 226 of the Constitution of India. The petitioner can always mould the relief in the civil by seeking amendment of the same but the fact remains that the relief as sought cannot be brought within the ambit of Article 226 of the

Constitution of India.

No ground is made out for interference.

Accordingly, the writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

April 28, 2017

savita

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No