

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-13975-2017
Decided on: 28.06.2017**

Sarbjit Singh and another

... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. R.K. Arya, Advocate,
for the petitioners.

SUDIP AHLUWALIA, J (ORAL)

Ms. Simsi Dhir Malhotra, DAG, Punjab, accepts notice on behalf of the State.

The grievance of the petitioners in this case is limited to the alleged non-cognizance of his stay application on the part of respondent No.2.

Brief fact of the case is that the private respondents had filed an application under Section 111 of the Punjab Land Revenue Act seeking partition of their common lands. The application was allowed, although it is the contention of the petitioners (co-sharers) that the same was done in a perfunctory manner without giving an appropriate opportunity of hearing to the petitioners. The appeal preferred against such decision was also dismissed by respondent No.3 after which the petitioners have filed their revisional application No.285 of 2017. It is the specific grievance of the petitioners that the respondents are proceeding with execution of the original partition order, while the stay application filed by the petitioners before the revisional authority is not being entertained or accepted on the premise that respondent No.2 has 'gone abroad' and that no one is authorised in his absence to act on such application.

Such response, if true, is clearly unacceptable because the statutory right of a litigant/party in any proceeding cannot be vitiated simply on the ground that the authority competent to entertain the proceeding is not available. In case, respondent No.2 has actually gone abroad, then logically somebody from the Department must have been authorised to look after the urgent work/matters in his absence.

In the circumstances, the writ petition is disposed of with a direction upon the respondents No.1 and 2 to ensure that an appropriate order on the stay application of the petitioner dated 18.06.2017, which is a part of his revisional application (Annexure P-4), is passed after giving him an opportunity of hearing, and before proceeding any further in the pending execution.

28.06.2017

Dinesh

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No