

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP No.20731 of 2016 (O&M)

Date of decision:21.03.2017

Yogesh Kumar Gupta

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Aditya Yadav, Advocate
for the petitioner.

Mr. Rajbir Singh, AAG, Haryana.

Mr. D.S.Matya, Advocate
for respondent No.3.

AMIT RAWAL J. (Oral)

The petitioner is aggrieved of the impugned order dated 31.08.2016, whereby, ROR bearing No.57/15-16 preferred before the Financial Commissioner has been dismissed-in-default.

The averments in the writ petition, according to Mr. Aditya Yadav, learned counsel for the petitioner are that on two dates, the Financial Commissioner was not holding the Court and on another date, the matter was pending for effecting service upon the respondents. When the order was passed, counsel representing the petitioner was busy in some family function. It is in this background of the matter, aforementioned ROR came to be dismissed in default.

Mr. D.S.Matya, learned counsel appearing on behalf of private

respondent No.3 submits that the petitioner has also availed the remedy of civil suit and intentionally was proceeded against ex parte in the partition proceedings which is basically delaying tactics to tire out the respondent as the respondent had also given 'No Objection Certificate' for the purpose of setting up a petrol pump. It is an attempt to black mail the respondent, much less deliberate attempt of forum shopping and thus, urges this Court for dismissal of the writ petition with exemplary costs.

I have heard learned counsel for the parties and appraised the paper book.

Conceded position on record is that suit is pending. It is strange that two parallel proceedings seeking partition of property are pending adjudication.

Be that as it may, I do not intend to delve at this stage, but the fact remains that aforesaid ROR was dismissed in default, as per the facts noticed above. The petitioner had also not been diligent in pursuing the matter being proceeded against ex parte and other party has been dragged to appear in this writ petition filed against the impugned order.

In order to do justice and prevent miscarriage of justice, I deem it appropriate to set aside the impugned order and allow the writ petition by restoring the aforementioned ROR to its original number but subject to costs of ₹10,000/- to be paid to Mr. D.S.Matya, counsel for respondent No.3 in this Court.

Liberty is granted to seek interim stay as restoration of the ROR
will not automatically grant the de-facto of status quo.

March 21, 2017
savita

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No