

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

LPA No.740 of 2017 (O&M)

Date of Decision : 15.05.2017

Sharmila Kaushik and another

....Appellants

Versus

Paras Buildtech India Pvt. Ltd.
and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE DR.SHEKHER DHAWAN

Present : Mr. Pardeep Kumar Rapria, Advocate
for the appellants.

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MAHESH GROVER, J. (Oral)

The appellants are aggrieved of the order dated 05.05.2017.

The petitioners filed a petition invoking the powers of the court under Article 226 of the Constitution of India wherein interim order was passed.

We do not have the benefit of either the petition or the interim order passed by the learned Single Judge. The impugned order would show that the appellants moved an application for vacation of interim order passed by the Court and the learned Single Judge declined interference by what we term a self speaking order as the following reproduction would indicate :-

“This Court called upon learned counsel for the applicants/respondent No.7 and 8 to apprise whether he has filed the written statement, the answer was that he has not filed the written statement as copy of the writ petition has not

been received by him. Once copy of the writ petition has not been received, how can the averments with regard to concealment be pointed out in the application duly supported by affidavit.

Despite the act that the application is not maintainable, learned counsel for the applicants-respondent No.7 and 8 still insisted for issuing notice in the application.

I am of the view that the application is wholly misconceived and deserves dismissal. However, liberty is granted to the applicants-respondent Nos.7 and 8 to file the written statement along with material documents to establish the issue in accordance with law.

The application is dismissed.”

We cannot find any fault with the reasoning of the learned Single Judge. If the appellants did not even have the copy of the writ petition, evidently they would be deprived of the content and nature of the controversy raised therein and thus precluded from making any prayer before the court seeking variation or vacation of order passed. The Court in turn was bereft of the appellants' stand and if it had to vary the order passed by it earlier, it would have to look into its justification only if the appellants had afforded the benefit of their stand to the Court. In this eventuality, we do not understand the grievance of the appellants at all particularly when the counsel representing the appellants should have understood the import of the order as also the remedies available to him. Clearly it was a situation

where he should have instantly withdrawn from the proceedings, obtained a copy of the writ proceedings, filed his response along with another application for vacation of stay, but having failed to notice or even understand the simple remedy available to him he has chosen to file the present appeal wherein the office had raised the following objections :-

- “1. Index page serial numbering is not correct.
2. MOP of LPA is still not tally with writ petition No.8408/2017 memo of party.
3. Certificate attached with p.book be page marked.
4. Impugned order dt.05/05/17 should be signed by ld. counsel as true copy.
5. IInd set of LPA is photo copy and same be signed by ld.counsel.
6. Complete copy of CWP should be attached with this LPA.”

It is upon the insistence of the learned counsel for the appellants that the present appeal has been listed before us.

Learned counsel for the appellants contends that prior to 44th amendment of the Constitution of India there was a specific bar to grant any interim relief where serious public interest was involved. He has contended that there has been concealment of facts as proceedings had been initiated before the Green Tribunal and this fact was not disclosed to the Court. That apart, the respondents have raised constructions which are likely to threaten the welfare and well

being of the residents of the area.

He has argued that the concealment is writ large if the interim order is perused. When we asked him to take us to the interim order, the learned counsel responds by stating that it is not on record. The writ petition too is not on record. We are, therefore, being kept away from the entire controversy raised in the writ proceedings by the respondents. In this situation we are of the opinion that the appellants are simply wasting the time of the court unnecessarily and if the interim order has been passed by the learned Single Judge on the first date of hearing, clearly the appellants would have remedies in subsequent hearing before the learned Single Judge. We cannot find fault in the expectation of a court to be apprised of the stand of the appellants being before it, were it to venture to reconsider its earlier order. But we are surprised that the learned counsel for the appellants totally missed these signposts put down by the learned Single Judge in his order.

Dismissed with costs of Rs.50,000/- to be recovered from the learned counsel representing the appellants and deposited in the account of the Punjab and Haryana High Court Employees Welfare Association, Chandigarh within one month.

(MAHESH GROVER)
JUDGE

15.05.2017
dss

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No