

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 17279 of 2022(O&M)
Date of Decision:06.12.2022

Amar Singh

.....Petitioner

Versus

State of Punjab and others

..... Respondents

**CORAM:- HON'BLE MRS.JUSTICE LISA GILL
HON'BLE MRS. RITU TAGORE**

Present: Mr. Umesh Aggarwal, Advocate
for the petitioner.

Mr. K.S.Kang, Sr. DAG., Punjab.

Mr. Ramanjeet Singh, Advocate
for respondent no.3.

LISA GILL, J(Oral).

Prayer in this writ petition is for quashing order dated 13.07.2022, Annexure P-4, passed by the Director Land Records, Jalandhar. Further, prayer is for staying operation of order dated 28.07.2021, Annexure P-1, passed by the Director Land Records, Punjab, Jalandhar.

It is submitted that respondent no.3 filed a petition under Section 42 of the East Punjab Holding Consolidation and Prevention of Fragmentation Act, 1948 (for short 'the Consolidation Act') against the

petitioner, Balwant Singh and Jaswinder Singh, his brothers. It is submitted that though brothers of the petitioners were represented before the Director Land Records, Jalandhar, present petitioner was proceeded *ex parte* and petition under Section 42 of the Consolidation Act, filed by respondent no.3 was allowed on 28.07.2021.

Petitioner is stated to have filed an application on 30.08.2021 for setting aside order dated 28.07.2021, wherein he had been proceeded *ex parte*. An application for stay of operation of order dated 28.07.2021, is also stated to have been filed. It is submitted that after hearing arguments on behalf of learned counsel for the petitioner, respondent no.2 passed order dated 13.07.2022, directing status quo with regard to the property in question to be maintained. However, respondent no.3 subsequently proclaimed that the said order had been cancelled. Petitioner applied for the certified copy of order dated 13.07.2022, wherein much to the surprise and shock of the petitioner, his application stood dismissed. Hence aggrieved, present writ petition was filed.

Notice of motion was issued on 29.08.2022, while noting the abovesaid contentions on behalf of the petitioner with further reference to the two hand written orders on the application of the petitioner as under:-

“Learned counsel for the petitioner submits that on an application filed by the petitioner seeking stay of implementation of order dated 28.07.2021 (Annexure P-1), the Director Land Record, Jalandhar, vide impugned order dated 13.07.2022, directed *status quo* to be maintained till further orders after hearing arguments addressed by learned counsel for the petitioner. However respondent No.3 subsequently proclaimed that the stay order has been cancelled. It is submitted that much to the shock of the petitioner, when he applied for the certified copy of order dated 13.07.2022,

the petitioner's application stood dismissed.

Learned counsel for the petitioner refers to the document attached as Annexure P-4 with this writ petition, i.e. a photocopy of application dated 01.06.2022 filed by the petitioner, on which both the handwritten orders are found. Perusal thereof reveals the following two handwritten orders:

“13-07-2022

Present-Sh. S.P. Singh, Adv. for Petitioner-App.

Heard. Status quo to be maintained till further order, regarding disputed area described in the earlier order dated-28/07/2021 of this Court.

DLR

13/07/2022”

“Perused the record and file. There is no merit in this application filed.

13.7.22”

However, there is cutting over the former order granting *status quo*.

Notice of motion.

Mr. Sandeep Jain, Additional A.G., Punjab, to whom an advance copy of paper book has been supplied, accepts notice on behalf of respondents No.1 and 2 and prays for some time to seek instructions/file reply. Specific response be forthcoming before the next date of hearing.

Notice to respondent No.3 be issued, for 19.09.2022.”

The matter was adjourned to enable learned counsel for the State to seek instructions/ file reply. When no information was forthcoming, it was directed on 19.09.2022 that a specific affidavit be filed by respondent no.2 explaining the ambiguity as noted in order dated 29.08.2022 passed in this writ petition.

Short affidavit dated 01.12.2022 of Mr. Rajesh Tripathi, Director of Land Records-cum- Director Consolidation, Punjab, Jalandhar, along with affidavit of Mr. Karnail Singh, the then Director Land Records,

has been filed. Concerned officer namely Mr. Karnail Singh, the then Director Land Records, presently posted as Staff Officer to Chief Secretary (Punjab), is present in Court today.

It is submitted that he served as Director Land Records from 14.12.2020 to 14.07.2022. It is further stated that application for interim relief filed by the petitioner was in-fact dismissed and the discrepancy has arisen due to an incorrect draft put up by the concerned Clerk which was actually not signed by the officer. The Officer present in Court apologies for the same and assures that due care and caution shall be observed in future to ensure avoidance of such situation.

Be that as it may, even while accepting the explanation set-forth by the then Director Land Records, Punjab, it is to be noticed that order passed on 13.07.2022, is a totally non-speaking order, without advertence to the averments or pleas as may have been raised on behalf of the petitioner. It is a settled position of law that a *quasi* judicial authority should support its orders with reasoning. It has been held by the Hon'ble Supreme Court in **M/s Kranti Associates Pvt. Ltd. and another v. Sh. Masood Ahmed Khan and others, 2010(9) SCC 496** as under:-

- “b. A quasi-judicial authority must record reasons in support of its conclusions.
- c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
- d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
- e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

- f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.
- g. Reasons facilitate the process of judicial review by superior Courts.
- h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.
- i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system."

It is to be noted that learned counsel for respondent no.3 submitted that petitioner is in-fact acting in a mala fide manner as he has also filed a civil suit where no interim relief was afforded and it is only thereafter that present petition has been filed on frivolous grounds.

Be that as it may, learned counsel for respondent no.3, is unable to deny that order declining interim relief to the petitioner is a totally non-speaking, one line order, therefore unsustainable. The same is accordingly set aside and the matter is remitted to the Director Land Records, Punjab, to consider the application for interim relief and pass a fresh order in accordance with law within four (04) weeks of receipt of certified copy of this order and after affording opportunity of hearing to all concerned. Parties to remain present before the Director Land Records, Punjab, on 19.12.2022.

Till then, *status quo* regarding possession as on today be maintained. It is clarified that there is no expression of opinion on the merits

of the matter, which needless to say is within the realm of adjudication by the competent authority.

Writ petition as well as pending applications are disposed of accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

December 06, 2022.
s.khan

Whether speaking/reasoned : Yes/No.
Whether reportable : Yes/No.