

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(203)

CWP-942-2022

Date of decision: - 07.02.2023

Lakhmi @ Lakshmi Chand

....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. B.R. Rana, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

Mr. Baldev Raj Mahajan, Senior Advocate
with Mr. Satyam Tandon, Advocate, and
Ms. Nisha Kanojia, Advocate
for respondents No.2 to 4.

VIKAS BAHL, J. (ORAL)

This writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 05.02.2021 (Annexure P-4), vide which the appeal filed by the petitioner has been dismissed.

On 19.01.2022, a Co-ordinate Bench of this Court was pleased to pass the following order: -

“It is inter alia submitted that appeal against order of demolition was filed before the Commissioner and the matter was heard on 26.04.2018. Judgment was reserved. The then incumbent was subsequently transferred and no order was passed. The new incumbent started proceedings on 03.07.2020 during the ongoing Covid-19 pandemic and the matter was adjourned from one date to another. On

05.02.2021, appeal was dismissed without issuing any notice and grant of opportunity of hearing to the appellant. After transfer of the earlier incumbent, it was essential for the new incumbent to issue notice to the petitioner.

Notice of motion for 05.09.2022.

Mr. Rajneesh Chadwal, AAG, Haryana, accepts notice on behalf of respondents No.1 and 2 and waives service.

Respondents No.3 and 4 be served in the ordinary manner.

Meanwhile, operation of impugned order shall remain stayed.

(SUDHIR MITTAL)
JUDGE

19.01.2022”

Learned counsel for the petitioner as well as learned counsel for contesting respondents have jointly submitted that since the primary challenge to the order dated 05.05.2021 (Annexure P-4) is on account of the fact that the counsel for the petitioner was not heard, thus, they have stated that the impugned order dated 05.02.2021 (P-4) be set aside with a direction to respondent No.2 to decide the appeal filed by the petitioner afresh after hearing all the concerned counsels.

Learned Senior counsel for the contesting respondents has submitted that respondent No.2 be directed to decide the appeal within a time bound manner.

Keeping in view the above-said facts and circumstances, the present writ petition is disposed of with the following terms: -

- (i) The order dated 05.02.2021 (Annexure P-4) passed by the Commissioner, Faridabad Division, Faridabad, is set aside.
- (ii) Respondent No.2 is directed to decided the appeal filed by the petitioner against the order dated 01.09.2017 afresh within a period of two months from the date of receipt of certified copy of this order.

- (iii) The petitioner through his counsel as well as respondents through their counsel are directed to appear before the Commissioner, Faridabad Division, Faridabad on 14.02.2023 and inform the Court about the order passed in the present case.
- (iv) Counsels appearing for the parties are directed to fully cooperate with the Commissioner, Faridabad Division, Faridabad for the expeditious disposal of the case.

February 07, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No