

IN THE HIGH COURT OF PUNJAB & HARYANA AT

CHANDIGARH

1.

CWP-9026-2023

Pooja Dutta and others

... Petitioners

Versus

State of Haryana and others

... Respondents

2.

CWP-9151-2023

Pran Nath

... Petitioners

Versus

State of Haryana and others

... Respondents

Date of decision : 16.05.2023

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present:

Mr.Rajesh Khandelwal, Advocate
for the petitioner in CWP-9026-2023 and
for respondents no.5 and 6 in CWP-9151-2023.

Mr.Vikram Singh, Advocate and
Mr. Surjit, Advocate for the petitioner in CWP-9151-2023
and respondents no.8 and 9 in CWP-9026-2023.

Ms. Rajni Gupta, Addl.A.G. Haryana
for respondents no.1 to 3 in CWP-9026-2023 and
for respondents no.1 to 4 in CWP-9151-2023.

Mr.Inderjeet Singh, Advocate
for respondents no.4 to 7 in CWP-9026-2023.

VIKAS BAHL, J.(ORAL)

1.

This order will dispose of two writ petitions. The first writ
petition i.e., CWP-9026-2023 has been filed by Pooja Dutta, Santosh
Kumari and on behalf of Rajat Dutta (since deceased through his mother)

and challenge is to the order dated 21.03.2023 (Annexure P-2) passed by the Commissioner, Ambala Division, Ambala Cantonment vide which the revision petition filed by respondents no.4 to 7 has been allowed i.e. revision petition bearing no.34, without issuing notice to the petitioner or the other contesting parties and the matter has been remanded to the Assistant Director First Grade, Radaur. The second petition i.e., CWP-9151-2023 has been filed by Pran Nath in which the challenge is to the order dated 14.03.2023 (Annexure P-9) passed by the same authority i.e, Divisional Commissioner Ambala, Division Ambala, District Ambala vide which the revision petition arising from the same partition proceedings has been dismissed. Learned counsel for the petitioners appearing in both the writ petitions have jointly submitted that the Divisional Commissioner has passed two contradictory orders inasmuch as, vide order dated 14.03.2023, the revision petition filed by Pran Nath has been dismissed and thus, the partition proceedings have been upheld whereas in the order dated 21.03.2023, the revision petition which has been filed by Satpal Dutta etc. has been allowed and thus, the partition proceedings have been set aside and the matter has been remanded. It is submitted that on 21.03.2023, the order has been passed without issuing notice to the contesting parties. It is jointly submitted that in the said circumstances both the orders of the Commissioner dated 14.03.2023 and 21.03.2023 deserve to be set aside and the matter deserves to be reconsidered by the Divisional Commissioner after hearing all the concerned parties.

2. On 28.04.2023 the following order was passed in CWP-9026-2023, the following order was passed:-

“Learned counsel for the petitioners inter alia contends that the impugned order has been passed without hearing the petitioners.

Notice of motion.

Mr. Upasna Dhawan, AAG, Haryana, appears and accepts notice on behalf of respondents No.1 to 3-State and waives service.

Adjourned to 16.05.2023.

Liberty is granted to the petitioners to serve respondents No.4 to 11 through dasti process as well.

To be taken up at 1.45 pm.

Further proceedings in pursuance of the order dated 21.03.2023 shall remain stayed.”

3. A perusal of the report of the Registry would show that respondents no.4 to 11 have been served. Learned counsel appearing for respondents no.4 to 7 in CWP-9151-2023 and respondents no.8 and 9 in CWP-9026-2023 has not been able to dispute the said facts which have been brought to the notice of this Court. Learned counsel appearing for respondents no.4 to 7 in CWP-9026-2023 has submitted that in case the matter is remanded to the Divisional Commissioner, then the Divisional Commissioner be directed to decide the case as expeditiously as possible and the remand should not be construed as an expression on the merits of the case and the Commissioner should decide the matter afresh after reconsidering the entire matter, in accordance with law.

4. In CWP-9151-2023, on 01.05.2022, notice of motion was issued and the case was ordered to be heard along with CWP-9026-2023 and as per the report of the Registry, service is complete. No one has appeared on behalf of the respondent in the said case. All the learned counsels have jointly prayed that the impugned orders dated 14.03.2023 and 21.03.2023 be set aside and the Divisional Commissioner be directed to decide the revision petition filed by respondents no.4 to 7 in CWP-9026-2023 and by the petitioner in CWP-9151-2023 afresh, in accordance with law, after hearing all the parties.

petitions are partly allowed and the order dated 21.03.2023 (Annexure P-2) in CWP-9026-2023 and 14.03.2023 (Annexure P-9) in CWP-9151-2023 are set aside and the Divisional Commissioner, Ambala Division, Ambala, is directed to decide both the revision petitions i.e. Revision no.34 in CWP-9026-2023 filed by the petitioner and the other filed by petitioner Pran Nath in CWP-9151-2023 together, in accordance with law. Parties are directed to appear before the Divisional Commissioner on 25.05.2023. The Divisional Commissioner would issue notice to the remaining respondents, who have not been served and after service, said authority is directed to decide the revision petitions as expeditiously as possible.

6. It is made clear that this Court has not opined on the merits of the case and the Divisional Commissioner would consider the revision petitions independently, in accordance with law, after hearing all the parties concerned.

(VIKAS BAHL)
JUDGE

May 16, 2023
Davinder Kumar

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