

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(269)

CWP-9002-2017

Date of decision: - 01.02.2023

Gurmeet Singh and others

....Petitioners

Versus

A.C. First Grade-cum-Naib Tehsildar Patiala and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Sherry K. Singla, Advocate, for the petitioners.

Mr. Karan Puggal, DAG, Punjab.

Mr. Gaurav Mohunta, Advocate, for respondents No.2 to 6.

Mr. B.P.S. Virk, Advocate, for respondent No.34.

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 impugned order dated 27.03.2017 (Annexure P-9 (colly.) passed by respondent No.1, vide which the objections filed by respondents No.2 to 6 against the mode of partition dated 30.01.2017 sanctioned by respondent No.1 have been allowed.

On 31.01.2023, this Court was pleased to pass the following order: -

“Learned counsel for respondent Nos.2 to 6 has submitted that the impugned order is appealable and thus, the present Civil Writ Petition deserves to be dismissed on the said ground alone.

Learned counsel for the petitioners prays for an adjournment to get instructions in the matter.

Adjourned to 01.02.2023.

To be taken up at 02.30 pm.

31.01.2023

**(VIKAS BAHL)
JUDGE"**

Learned counsel for the petitioner has submitted that stay order granted by a Co-ordinate Bench of this Court on 01.05.2017, has continued in his favour till date and on the date the present writ petition was filed, there was no provision of any statutory appeal. Learned counsel for the petitioner has however fairly submitted that now as per the amendment made in the year 2020, there is a provision for appeal provided under Section 117 of the Punjab Land Revenue Act. Learned counsel for the petitioner has also submitted that since the contesting respondents are raising an objection that an appeal is maintainable, thus, the petitioner is ready to file an appeal, but the interim order dated 01.05.2017 be continued for a period of two weeks so as to enable him to approach the Court of Collector for filing the said appeal. It is prayed that the contesting respondents should not raise any objection with respect to the maintainability of the appeal and even with respect to the aspect of limitation in filing the appeal.

Learned counsel for respondents No.2 to 6 have stated that they have no objection to the said course of action.

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

- (i) Petitioner would be at liberty to file an appeal against the order dated 27.03.2017 before the Collector, Patiala within a period of two weeks from today. The said appeal would be

heard and decided by the Collector, Patiala on merits. Respondent No.2 would not raise any plea with respect to the maintainability of the said appeal or oppose the same on the ground of limitation.

- (ii) Interim order dated 01.05.2017 will remain in effect till the time an application for stay filed by the petitioner alongwith the appeal is considered. It is made clear that the said direction would ensue in favour of the petitioner only in case the appeal is filed within a period of two weeks from today alongwith a stay application.
- (iii) The Collector, Patiala would consider the appeal alongwith the stay application for preliminary hearing within a period of four weeks from today and after considering the same, would independently pass an order on the stay application. Grant of interim stay granted by this Court would not be construed as an expression of opinion on the merits of the case and the Collector, Patiala would decide the said application as well as the main case independently, in accordance with law.

February 01, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No