



IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA No.542 of 2019
Date of Decision: 12.09.2024

Anoop Singh
.....Appellant.
Versus
State of Punjab and others
.....Respondents.

CORAM: ***HON'BLE MR. JUSTICE G.S. SANDHAWALIA***
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present:- Mr. Deepak Verma, Advocate
for the appellant.

Ms. Arundhati Kulshreshtha, AAG, Punjab
for respondents No.1 and 2.

Mr. A.S. Manaise, Advocate
for respondents No.3 and 4.

G.S. SANDHAWALIA, J.(Oral)

The present Letter Patent Appeal has arisen out of the order dated 29.01.2018 (Annexure P-5) passed by learned Single Judge in ***CWP No.1765 of 2018*** when the writ petition was dismissed as pre-mature on the ground that the partition proceedings are in progress and have not been finally decided. Thereafter, the ***Review Application-CW No.27 of 2018*** was also dismissed on 05.02.2019.

2. Learned counsel for the appellant submits that the Mode of Partition was prepared and sanctioned without affording an opportunity to



the appellant for recording of the statement or seeking any objection before sanctioning the same. He has taken us to the zimni orders passed by the Assistant Collector, 1st Grade, Qadian, on 04.01.2016 and 11.01.2016 wherein the manner in which the proceedings were conducted by the Assistant Collector, have been recorded. It is submitted that the time when the proposed Mode of Partition was sanctioned in the year 2016, there was no provision for filing the appeal against the mode of partition. It is, however, submitted that in view of the amendment, the remedy of appeal has been restored.

3. Keeping in view the above, we are of the considered opinion that since the valuable rights of the parties are involved, it would be appropriate if the appellant is given chance to file an appeal before the Appellate Authority.

4. Learned counsel for contesting respondents No.3 and 4 has no objection to the said proposal of the appellant by giving him an opportunity to file the appeal before the Appellate Authority.

5. A perusal of the order dated 04.01.2016 passed by the Assistant Collector would gone to show that appellant Anoop Singh was present and his statement had not been recorded on the said day and the case was adjourned to 11.01.2016 for framing the Mode of Partition. On the said date, the Mode of Partition was sanctioned without giving the appellant an opportunity to oppose the same which is subject matter of challenge.

6. Keeping in view the above, we set-aside the impugned orders



passed by learned Single Judge and dispose of the present appeal by giving liberty to the appellant to file an appeal before the Appellate Authority against the order Annexure P-2 passed by respondent No.2, whereby the Mode of Partition was sanctioned, within a period of three weeks from today.

7. Since the matter has been pending for the last 08 years, we request the Appellate Authority to decide the appeal at the earliest, preferably within a period of six months from the date of receipt of the certified copy of this order.

8. It is made clear that if the appeal is filed by the appellant within the afore-said stipulated period, the interim stay granted by this Court vide order dated 12.03.2019, will remain in force and the Appellate Authority will consider the further extension of stay granted by this Court.

(G.S. SANDHAWALIA)
JUDGE

September 12, 2024
Yag Dutt

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No