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2024:PHHC:025427-DB
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-91-2024 in
CWP-21010-2023

Reserved on: 11.01.2024
Pronounced on: 22.02.2024

Ombir

...Appellant

Vs.

State of Haryana and others

...Respondents

CORAM: HON’BLE MR. JUSTICE DEEPAK SIBAL
HON’BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Satinder Kumar Rana, Advocate
for the appellant.

Mr. Hitesh Pandit, Addl.A.G.Haryana.

Mr. G.S.Sandhu, Advocate
for the respondent No.5.

DEEPAK MANCHANDA, J.

The present intra-court appeal assails the order dated 20.11.2023 vide which the writ petition filed by the present appellant was disposed of with the liberty to pursue alternative remedies as available to him in accordance with law before the appropriate authority.

The appellant had filed the aforementioned writ petition i.e. CWP-21010-2023 seeking to quash/set aside the second unique ID.No.59343S4S4S4M4RR2198A document No.593432198 of the property falling in khasra No.476/2 situated in village Salwan, Tehsil Assandh, District Karnal, measuring 94'-0” x 115'-0” total 1041 sq.m. situated within Lal Dora Abadi Deh, which has been issued in the name of Maharana Partap Community

Center, Gram Panchayat as record of rural habitation (Annexure P-5) being illegal and non-existing.

Given the facts emanated from the pleadings of the writ petition, the appellant vide registered transfer deed No.3339 dated 10.02.2023 in the office of Sub-Registrar at Tehsil Assandh executed the transfer deed (Annexure P-4) in favour of his sons, namely, Sompal Singh and Vikram Singh. After some time, he came to know that against the said property, another property card was issued in the name of Maharana Partap Community Center, Gram Panchayat as owner in column No.5, but in column No.8(A), Aadhar card number of the appellant has been mentioned without there being any printing date in column No.13 as well as stamp and signature of the Assistant Record Officer in column No.12 (Annexure P-5). Thereafter, the appellant sought an appointment for transfer deed registration (Annexure P-6) against the aforementioned ID No.593432198, wherein the name of the appellant was mentioned, but during the said proceedings, the appellant received a letter No.2/SR dated 03.04.2023 (Annexure P-7) from respondent No.4-Tehsildar, Assandh regarding receipt of application from Sarpanch, Gram Panchayat, Salwan, Block Assandh, District Karnal for cancellation of registration of the said property and the appellant was directed to appear before respondent No.4 for recording his statement alongwith all the relevant supporting documents. Accordingly, the appellant submitted relevant documents including the judgment and decree of the Court, property ownership certificate, transfer deed, etc. to the concerned officials, wherein clarification was also sought by respondent No.4 from respondent No.3-BDPO, Block Assandh, District Karnal regarding issuance of two certificates against the same property (Annexure P-8).

Aggrieved against the said action of officials in issuing second property certificate of ownership, the above-mentioned writ petition was filed.

Vide order dated 20.09.2023, notice was issued and on 20.11.2023, during the hearing, on instructions, the State counsel submitted that respondent No.4, i.e. Tehsildar Assandh has passed the order dated 06.11.2023 and against the same, the statutory alternative remedy under the Act is available for assailing the said order.

Given the statement made by the respondent-State, the learned Single Judge in the presence of counsel for the appellant, disposed of the said writ petition with a liberty to the appellant to pursue the alternative remedy as available to him in accordance with the law before the appropriate authority.

Aggrieved against the said order dated 20.11.2023, the appellant has preferred the present '*Intra-court*' appeal on the ground that the learned Single Judge did not consider the main issue while passing the impugned order and as well as the order dated 06.11.2023 passed by respondent No.4, i.e. Tehsildar, Assandh was neither produced nor the same was provided to the appellant. Though admittedly the said order was procured by the appellant on 28.11.2023. The present appellant has also challenged the impugned order stating that the alternative remedies cannot be pursued as the same are not available under law and the only remedy lies before this Court by filing a writ petition.

Learned counsel for the appellant contends that the impugned order dated 20.11.2023 passed by learned Single Judge is not sustainable in the absence of any alternative remedy.

We have considered the arguments advanced by learned counsel for the appellant and have gone through the order of the learned Single Judge

and the other documents including the pleadings of the parties have also been perused and considered.

The learned Single Judge during proceedings of the said writ petition directed the respondent-State to have instructions, wherein it was apprised by the respondent-State that respondent No.4 has already passed the order dated 06.11.2023, which has not been challenged by the appellant despite there being statutory remedy available under the Act to assail the said order and accordingly, learned Single Judge disposed of the writ petition by granting liberty to the appellant to challenge the same by law.

A perusal of the present appeal also reveals that the facts as already pleaded in the writ petition have been reiterated in the appeal to challenge the impugned order dated 20.11.2023 by terming the same as order of dismissal and no other ground has been pleaded. Admittedly, the order dated 06.11.2023 was duly obtained by the present appellant on 28.11.2023 and it has been wrongly pleaded in the present appeal that the aforesaid writ petition was dismissed rather, the same was disposed of by granting the opportunity to the appellant to avail the statutory remedy by law, which does not curtail the rights of the appellant. The specific pleadings raised by the appellant in the writ petition are regarding the illegal cancellation of transfer deed No.3339 dated 10.02.2023 as well as the issuance of two unique property IDs of the same property in the names of different persons without giving an opportunity of hearing to the appellant, who is holding the property under the Act. Moreover, the sole ground to challenge the impugned order by way of present appeal is that against such actions only writ petition lies before this Court and learned Single Judge has committed an error while granting liberty to the appellant, but same is not much convincing to this Court, as learned Single Judge has rightly

granted the opportunity of filing statutory appeal as an alternative remedy, which is available under the Punjab Land Revenue Act, 1887, and is applicable for preparing the records of rights on the land falling within the Lal Dora of a village i.e. the inhabited site of village. The provision for assailing the order dated 06.11.2023 is very much provided under the Act by way of filing statutory appeal, where the Revenue and Disaster Management Department, Govt. of Haryana vide Gazette Notification dated 01.04.2022 inserted the **Chapter-7A** (The Record of Rights-Abadi Deh) in the Haryana Land Records Manual and the same is reproduced herebelow:-

Para 7A. 15- Appeal, Review and Revision

“Chapter II of Act, 1887 contains the provisions regarding appeal, review and revision. The aggrieved person may avail the efficacious remedy of appeal, review and revision against the rejection/ considering of the objections, recording of proprietary rights. area, boundary, dimensions, sub-Division, etc., which affect the entry recorded in record-of-rights. The period of limitation is well prescribed and defined in Act, 1887.”

Even the applicability of the aforementioned Act has been duly admitted by the appellant in the pleadings before the writ Court vide Annexure P-9 annexed with the writ petition. Furthermore, a bare reading of the impugned order dated 20.11.2023 shows that the same was passed in the presence of the counsel for the appellant, where no such objection was raised and same was accepted. Therefore, now raising an objection that no such remedy is available under the Act does not have much weightage.

Given the aforesaid discussion, the present appeal does not succeed and the same is hereby dismissed, which does not require interference by this Court as the opportunity of availing the alternative remedy in

accordance with law by disposing of the writ petition does not suffer from any
illegality.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

22nd February, 2024
vanita

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No