

Johra And Ors vs State Of Haryana And Ors on 3 December, 2018

Equivalent citations: AIR 2019 SUPREME COURT 542, 2019 (2) SCC 324, AIRONLINE 2018 SC 893, (2019) 196 ALLINDCAS 105 (SC), (2018) 15 SCALE 382, (2019) 196 ALLINDCAS 105, (2019) 1 CAL HN 274, (2019) 1 CLR 380 (SC), (2019) 1 CURCC 12, (2019) 2 PAT LJR 90, AIR 2019 SC (CIV) 1520

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Bench: Indu Malhotra, Abhay Manohar Sapre

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL Nos. 11757-11758 OF 2018
(Arising out of S.L.P.(C) Nos. 3449-3450 of 2017)

Johra & Ors.

...Appellant(s)

VERSUS

State of Haryana & Ors.

...Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. Leave granted.

2. These appeals are filed against the final judgment and order dated 16.05.2016 passed by the High Court of Punjab & Haryana at Chandigarh in C.W.P. No.9512 of 2016 whereby the Division Bench of the High Court disposed of the writ petition filed by respondent No.8 herein with a direction to the Deputy Commissioner, Sonipat to obtain a report from a fact finding inquiry regarding the unauthorized encroachment of the appellants herein over the land of the Gram Panchayat and to restore the said land to the Gram Panchayat with police help. Against the said order, the appellants herein filed review petition which was dismissed by the High Court by order dated 21.10.2016 in RA□CW□312 of 2016 in CWP No.9512/2016.

3. Few facts need mention infra for the disposal of these appeals.

4. At the outset, it may be mentioned that it was not in dispute that the High Court while disposing of the writ petition filed by respondent No.8 herein against the appellants and State issued

certain mandatory directions to the State Authorities in respect of the subject matter of the writ petition for their compliance. It is also not in dispute that the appellants were arrayed in the said writ petition (No.9512 of 2016) as respondent Nos. 8 to 80.

5. Indeed, we also find that the High Court also observed (see page 2 of the impugned order) that they do not deem it necessary to issue any notice to any of the private respondents except to the State and its Authorities considering the nature of the order they intend to pass for the disposal of the writ petition.

6. Against this order, the private respondent Nos. 8 to 80 of the writ petition have felt aggrieved and filed these appeals by way of special leave in this Court.

7. Though learned counsel for the parties made lengthy submissions on merits of the case in support of their respective stands but keeping in view the admitted fact emerging from the record of the proceedings that the impugned order was passed without hearing the present appellants despite they being party respondents in the writ petition, we are of the considered view that the impugned order is not legally sustainable.

8. We may reiterate the basic fundamental principle of law that no order can be passed by any Court in any judicial proceedings against any party to such proceedings without hearing and giving such party an opportunity of hearing.

9. Principle of natural justice demands that the party to the proceedings must be heard by the Court before passing any order in relation to the subject matter of such proceedings (see observations of an eminent Judge □ Vivian Bose in Sangram Singh vs. Election Tribunal (AIR 1955 SC 425).

10. The fact that a person is made a party to the judicial proceedings in relation to a certain dispute has a legitimate right to raise an objection that before passing any order in such proceedings, he should be at least heard and his views/stand in relation to the subject matter of the proceedings be taken into consideration. The Court is duty bound to hear all such person(s) by giving them an opportunity to place their stand.

11. In this case, we find that the High Court issued some mandatory directions to the State in relation to the subject □ matter of the proceedings but it was done without hearing the appellants (respondents in the writ petition before the High Court). It is for this reason, we are unable to uphold the impugned order.

12. We have not set out the entire factual dispute which led to filing of the writ petition, nor set out the stand taken by the parties against each other

before the High Court and nor dealt with any factual issues arising in the case though argued vehemently by both the learned counsel against each other.

13. In our view, it is for the parties to raise all their pleas before the High Court to enable it to decide in accordance with law. We, therefore, express no opinion on any of the pleas.

14. In view of the foregoing discussion, the appeals succeed and are accordingly allowed. Impugned order is set aside. The writ petition, out of which these appeals arise, is restored to its original number before the High Court.

15. Let the writ petition be decided by the High Court after hearing all the parties in accordance with law. Since the matter relates to a large piece of the land, it must be disposed of within six months from the date of this order without allowing any party to seek any adjournment.

..... J. [ABHAY MANOHAR SAPRE]
..... J. [INDU MALHOTRA] New Delhi;

December 03, 2018