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JOHRA & ORS.

v.

STATE OF HARYANA & ORS.

(Civil Appeal Nos. 11757-11758 of 2018)

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DECEMBER 03, 2018

[ABHAY MANOHAR SAPRE AND INDU MALHOTRA, JJ.]

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Natural Justice: Opportunity of hearing – Allegation of unauthorised encroachment of the appellants over the land of Gram Panchayat – Writ petition filed by respondent no.8 – High Court observed that it was not 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 intended to pass for disposal of writ petition and disposed of writ petition with direction to the Deputy Commissioner to obtain a report from a fact finding inquiry regarding unauthorised encroachment of the appellants and to restore the said land to the Gram Panchayat with police help – Aggrieved private respondents of writ petition filed these appeals – Held: 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 – In this case, 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) – For the said reason, the impugned order is set aside – Parties to raise all their pleas before the High Court to enable it to decide in accordance with law.

Allowing the appeals and remitting the matter to High Court, the Court

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HELD : 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. 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

A 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.

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

C 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.

D 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.

E 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.

F 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.

G 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.

H 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.

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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.

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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.

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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.

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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.

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