

COCP No.2577 of 2015

[1]

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**COCP No.2577 of 2015
Date of decision:05.10.2015**

Sain Tari Singh

...Petitioner

Versus

Amandita Mitra and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sanjay Majithia, Senior Advocate, with
Mr. Rajesh Kumar, Advocate, for the petitioner.

Rakesh Kumar Jain, J.

This petition is filed for the alleged disobedience of the order dated 01.04.2015 passed by this Court in CWP No.13675 of 1991.

In brief, the Punjab Wakf Board filed a Civil Suit No.8 of 06.01.1999/24.06.2003 before the Tribunal under the Wakf Act, 1995 against the petitioner and 8 others for joint possession of land measuring 43 Kanal 02 Marlas out of land measuring 56 Kanal 02 Marlas, comprised in Khewat No.1265, Khatauni/Khasra No.150, situated in village Bajwara, Hadbast No.355, Tehsil and District Hoshiarpur. The suit was decreed on 01.03.2006. The said decree was challenged by the petitioner in CWP No.6177 of 2006, which was decided on 11.05.2012. The Punjab Wakf Board challenged the order of the Writ Court before the Apex Court in the

COCP No.2577 of 2015

[2]

SLP in which no stay was granted, as alleged. It is further alleged that one Charan Kaur widow of Malook Singh, who claimed herself to be a successor-in-interest of Malook Singh i.e. the allottee of 9 Kanal 14 Marlas of land in Khasra No.150 in village Bajwara, Tehsil and District Hoshiarpur, moved an application to the Assistant Director, Consolidation of Holdings, Punjab for allotment of land in the said khasra number. The Assistant Director (Consolidation) remanded the case to the Consolidation Officer, who vide his order dated 18.07.1988 ordered the allotment of 9 Kanal 14 Marlas of land to Natha Singh in Khasra No.150. Against the said order dated 18.07.1988, the petitioner filed appeal which was dismissed by the Settlement Officer on 30.10.1989 and the further appeal filed by the petitioner before the Assistant Director (Consolidation), Punjab was accepted on 18.07.1990. Against the said order dated 18.07.1990, Charan Kaur, successor-in-interest of Natha, filed a petition under Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948, which was allowed by the Director (Consolidation), Punjab on 09.05.1991. The said order has been challenged by the predecessor-in-interest of the petitioner by way of CWP No.13765 of 1991. The writ petition was disposed of on 01.04.2015 by the Division Bench of this Court in view of the consensus arrived at between the parties and all the orders passed by the Consolidation authorities were set aside and the application filed before the Consolidation authorities was dismissed but with liberty to the private respondents to seek possession of the land on the basis of their allotment by resorting to the procedure prescribed by law. It is alleged that

COCP No.2577 of 2015

[3]

after the passing of the order dated 01.04.2015, Sant Singh and others, who were respondents No.4 to 9 in the said writ petition, alleged allottee of the land in Khasra No.150, filed an application for partition of land measuring 9 Kanal 14 Marlas but the petitioner was not deliberately made a party therein. The petitioner moved an application under Order 1 Rule 10 of the Code of Civil Procedure, 1908 before the Assistant Collector 1st Grade, Hoshiarpur but the application was dismissed on 05.06.2015, against which the petitioner filed a revision before the SDM, exercising the powers of Collector, Hoshiarpur but the said revision was also dismissed on 30.07.2015 and in the meantime, the partition proceedings are alleged to have been finalized and the warrant of possession has been issued.

In the background of the aforesaid facts, it is sought to be argued by the petitioner that the authorities concerned have deliberately not permitted the petitioner to join as a party to the partition proceedings and have violated the order dated 01.04.2015 passed by this Court.

I have heard learned counsel for the petitioner and perused the record from which I have found that respondents No.1 and 2 have passed the orders on judicial side which could have been challenged by the petitioner before the higher Court as there is no such specific direction issued by this Court that the petitioner should be impleaded as a party because all that has been said is that the private respondents in the writ petition would have the liberty to seek possession of the land on the basis of their allotment by resorting to the procedure prescribed by law and in pursuance thereof, if the petitioner has not been impleaded as a party and the application has been

COCP No.2577 of 2015

[4]

dismissed by respondent Nos.1 and 2 to implead the petitioner as a party, it is a matter to be pursued by the petitioner before the higher Court by challenging the said orders but no contempt is made out

Consequently, the present petition is hereby dismissed.

October 05, 2015
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(Rakesh Kumar Jain)
Judge