

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

CWP-21191-2013 (O&M)
Date of decision : 06.07.2015

Harbhajan Singh

...Petitioner

Versus

Financial Commissioner, Animal Husbandry, Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Arihant Jain, Advocate,
for the petitioner.

Mr. Mehardeep Singh, DAG, Punjab.

Mr. Jai Bhagwan, Advocate,
for respondent Nos.5 and 7 to 10.

JITENDRA CHAUHAN, J.

By way of the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has sought quashing of order dated 24.01.2007 (Annexure P-6), passed by respondent No.1; order dated 14.09.2004 (Annexure P-5), passed by respondent No.2; order dated 12.05.2003 (Annexure P-3), passed by respondent No.3; and order dated 27.02.2003 (Annexure P-1), passed by respondent No.4.

The learned counsel contends that the total land for partition is 63 Bighas and 14 Biawas as per the application for partition. The share of the co-sharers is 1/3rd of Dayal Singh, 1/3rd of Karnail Singh, 1/6th of Harbhajan Singh and 1/6th of Jagtar & Manjeet,

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2 Bighas out of Khasra No.506/1 and 506/2 of Bant Singh, as purchaser. The petitioner is in possession of Khasra No.503 (3-12) before partition. It is specifically mentioned in the application for partition as well as in the mode of partition that the possession be kept intact while partitioning the land. However, the learned Assistant Collector, I Grade, Malerkotla, partitioned Khasra No.503 into 5 taks on the ground that it touches the road and it has more value, which is in violation of the mode of partition as this Khasra No.503 touches the Firni of the village and there is no main road and the value of the land is also the same. The authorities fell into error by only partitioning Khasra No.503 alone out of the total land.

On the other hand, the learned counsel for the private respondent Nos.5, 7 to 10, submits that the assertions raised by the petitioner are against the record. The ground taken by the petitioner with regard to the partition of Khasra No.503 alone has been taken for the first time before this Court. He has not raised any such plea before any of the authorities below. The partition has been done on the spot in the presence of the petitioner, the respondents and other respectables.

I have heard learned counsel for the parties and perused the case file.

The applicant, Dial Singh, filed an application under Section 111 of the Punjab Land Revenue Act (for short, "the Act"), for partition of the land measuring 63 Bighas 14 Biswas comprising of Khasra No.17 Khatauni No.89-90-91, Khasra No.499/7-14, 500/10-0,

501 Min/2-0, 502/10-0, 503 Min 3-12, 501 Min 8-0, 503 Min 3-12, 505 (1-0), 504, 5-15, 505 Min /6-13 and 506/0-4-0, 506/2/1-10. The assertion of the petitioner that the revenue authority partitioned only Khasra No.503, without touching other khasra numbers appears to be misconceived and against the record, without there being any evidence to this effect. On the contrary, a perusal of Annexure P-2 reveals that the entire land has been partitioned amongst the co-sharers. It is also evident from the perusal of order dated 27.02.2003, passed in the application moved by Dial Singh, under Section 111 of the Act, (Annexure P-1), that the petitioner, the respondents, revenue field staff and other respectables were present at the spot. To do full justice to the parties, a little deviation from Mode of Partition will not vitiate the entire partition proceedings.

In ***Ashok Kumar Vs. Sita Ram – 2001(1) Apex Court Journal 681***, it has been held as under:-

“The question that remains to be considered is whether the High Court in exercise of writ jurisdiction was justified in setting aside the order of the Appellate Authority. The order passed by the Appellate Authority did not suffer from any serious illegality, nor can it be said to have taken a view of the matter which no reasonable person was likely to take. In that view of the matter there was no justification for the High Court to interfere with the

order in exercise of its writ jurisdiction. In a matter like the present case where orders passed by the Statutory Authority vested with power to act quasi-judicially is challenged before the High Court, the role of the Court is supervisory and corrective. In exercise of such jurisdiction the High Court is not expected to interfere with the final order passed by the Statutory Authority unless the order suffers from manifest error and if it is allowed to stand it would amount to perpetuation of grave injustice. The Court should bear in mind that it is not acting as yet another Appellate Court in the matter. We are constrained to observe that in the present case the High Court has failed to keep the salutary principles in mind while deciding the case.”

In view of the above discussion, this Court does not find any illegality or perversity in the impugned orders, Annexures P-1, P-3, P-5 and P-6, and the same are hereby upheld. Resultantly, the present petition, being bereft of any merit, is hereby dismissed.

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(JITENDRA CHAUHAN)
JUDGE