

CWP No.25866 of 2015

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

CWP No.25866 of 2015
Date of decision: 17.12.2015

Mukesh and another

....Petitioners

Versus

The Financial Commissioner, Haryana, Revenue Department and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Ashish Aggarwal, Sr. Advocate, with
Mr. Kulwant Singh, Advocate, for the petitioners.

PARAMJEET SINGH, J. (ORAL)

Instant writ petition under Articles 226 and 227 of the Constitution of India has been filed for issuance of writs in the nature of *certiorari*, *mandamus*, *prohibition* etc. for quashing the impugned order dated 08.10.2015 (Annexure P-14) passed by Financial Commissioner, order dated 03.06.2014 (Annexure P-9) passed by Commissioner and orders dated 03.12.2012 and 31.01.2013 (Annexures P-4 and P-8) passed by Assistant Collector IInd Grade, Hisar.

Brief facts of the case are that one Banwari (now deceased) filed an application for partition of land measuring 285 Kanals 0 Marla situated in the revenue estates of Village Chikanwas in District Hisar, on 15.12.2003 before the Assistant Collector Ist Grade, Hisar. In pursuance

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of the application, partition proceeding commenced. Petitioners purchased the land after atleast six years from the date of filing the original application for partition. Now petitioners are raising objections with regard to improper partition of the land.

I have heard learned counsel for the petitioners and perused the record.

Admittedly, petitioners are stepping into the shoes of their vendors, namely, Rameshwar etc., who were already party to the partition proceedings. Rights of the petitioners will go with the rights of their predecessors-in-interest from whom they have purchased the land as they have no independent right to file objections. Otherwise also, perusal of Annexure P-11 reveals that petitioners have been given a major share of the land, shown in green colour, on the metaled road whereas other co-sharers have been given land at other places which are approximately 3½ away from the metaled road.

Learned counsel for the petitioners contends that petitioners have been given much less area.

The contention of the learned counsel for the petitioners cannot be accepted as petitioners should have been much less area as compared to other co-sharers, since total land is 285 kanals and petitioners are claiming 32 kanals of land. Main challenge of the petitioners is to the order passed by Financial Commissioner that he has recorded a factually incorrect finding that petitioners are owners of 22 kanals of land. To rebut this finding, learned counsel for the petitioners

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has not dared to annex the relevant documents i.e. jamabandi etc. with the file to show the share of the petitioners. Predecessors-in-interest of the petitioners might have sold the land more than their share. It is settled principle of law that share of the last vendee will go.

In view of above, I do not find any illegality or perversity in the impugned orders.

Dismissed.

(Paramjeet Singh)
Judge

December 17, 2015
R.S.