

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.12194 of 2014
Date of decision: 26.07.2016

Chalti and others

... Petitioners

Vs.

Financial Commissioner, Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. M.K. Dogra, Advocate
for the petitioners.

Mr. R.S. Doon, AAG, Haryana.

Mr. Sandeep Kotla, Advocate
for respondents No.2 to 15.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned order dated 17.02.2014 (Annexure P-9) passed by the Financial Commissioner Revenue, Haryana, whereby the order dated 30.03.2009 (Annexure P-4) passed by Assistant Collector 1st Grade, Jhajjar, order dated 16.09.2009 (Annexure P-5) passed by Collector, Jhajjar and order dated 27.09.2012 (Annexure P-7) passed by the Commissioner, Rohtak Division, Rohtak, were upheld in a partition matter, petitioners have approached this Court, by way of present writ petition under Article 226/227 of the Constitution of India, seeking a writ in the nature of certiorari.

Notice of motion was issued and in compliance thereof, reply on behalf of the contesting respondents No.2 to 15 was filed.

Heard learned counsel for the parties.

Respective shares of the parties are not in dispute. It is also not the pleaded or argued case on behalf of the petitioners that they have not been allotted their due share. Learned counsel for the petitioners fairly conceded that mode of partition was not challenged by either of the parties. His only contention before this Court is that final partition has not been carried out strictly in accordance with the mode of partition, because land underneath one room which was constructed by the petitioners has not been allotted to them, thereby disturbing their possession and causing prejudice to them. In this regard, he places reliance on the photograph (Annexure P-10).

On the other hand, learned counsel for the contesting respondents has emphatically denied the argument raised by learned counsel for the petitioners, contending that as per site plan (Annexure R-1), which was got prepared and submitted by the petitioners themselves, partition proceedings have been finalized in best possible manner, allotting the respective share of the parties. He further submits that some minor adjustments have to be made and the photograph (Annexure P-10) does not reflect true fact situation at the site. Even if a small room used for storing the dry fodder, was being used by the petitioners, it would not cause any prejudice to them because the said room was very small and the quality of construction was also very poor, which was only a temporary arrangement. He concluded by submitting that since the petitioners have been allotted their due share carrying out the partition as per the ground realities, impugned orders deserved to be upheld. He seeks dismissal of the present writ

petition.

A bare combined reading of all the four impugned orders passed by the respondent authorities would show that the arguments raised by learned counsel for the petitioners are without any substance and the impugned orders deserve to be upheld. It is so said because all the four revenue authorities have recorded concurrent findings of fact. The relevant observations made by the Commissioner, Rohtak Division, Rohtak in his order dated 27.09.2012 (Annexure P-7), which deserve to be noticed here, read as under: -

“I have heard the arguments of both the learned counsel for the parties and thoroughly perused the record came on file. On perusal of record and Naksha, it is found that Naksha Bey has been prepared by the court below in accordance with possession as per share. Total share of the petitioners as per record comes to 0.18 Marlas. The house as has been constructed by the petitioners in Killa No.23/2/1 and 23/2/2/1 and as per Naksha Bey total 0-18 Marlas land is already allotted to the petitioners. The arguments given by counsel for the respondent and the ruling produced that total 54 Karam land is towards Rasta whereas petitioner is having excess share of 10 x 17 Karam land towards Rasta and petitioner has been given 5 x 33 Karam land towards Rasta and this land is equally distributed to all as per share. In this way there is no defect in the order passed by the Courts below and no interference is required. As such keeping in view the above situation, finding no force in the revision of the petitioners, it is hereby dismissed. File after compliance be consigned to the record room.”

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in either of the impugned orders passed by all the four revenue authorities, which may warrant interference at the hands of this Court, while exercising its writ jurisdiction under Article 226/227 of the Constitution of India. Further, no prejudice, of any kind whatsoever, has been shown to have been caused to the petitioners by passing the impugned orders. Petitioners have been allotted their due share as per their own site plan, which they furnished before the revenue authorities in the form of Annexure R-1. This material fact has not been denied by learned counsel for the petitioners.

Further, when asked to point out any better alternative method of partition, than the one already adopted in the impugned orders, learned counsel for the petitioners had no answer and rightly so, it being a matter of record. It goes without saying that in the partition matters, some adjustments have to be made in the very nature of things, so as to strike a balance between the parties. In the present case, partition has been ordered as per the suggested mode of partition by the petitioners themselves vide their own site plan Annexure R-1. There was no better way out nor any suggested by the learned counsel for the petitioners even before this Court.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since all the four revenue authorities have recorded their concurrent findings of fact and the impugned orders have not been found suffering from any illegality, the same deserve to be upheld. Present writ petition is wholly

misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant writ petition stands dismissed, however, with no order as to costs.

26.07.2016
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No