

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

CWP No.10663 of 2016

Date of decision: 18.10.2016

Raghvir Singh and another

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. M.S. Virdi, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned order dated 21.04.2016 (Annexure P-7) passed by the Assistant Collector 1st Grade, Dasuya, whereby mode of partition was approved, petitioners have approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned order.

Notice of motion to respondent No.3 only at this stage.

Mr. Malkeet Singh, Advocate appears and accepts notice on behalf of respondent No.3.

Heard learned counsel for the parties.

The only argument raised by learned counsel for the petitioners is that parties have mutually decided for partition keeping their respective possession intact. In this regard, he refers to the objections (Annexure P-6) moved by the petitioners to the proposed mode of partition by way of order dated 14.01.2016 (Annexure P-5). However, the solitary contention raised by

learned counsel for the petitioners has been vehemently denied by learned counsel for respondent No.3, who is the only contesting respondent, contending that proposed mode of partition (Annexure P-5) was based on the basic principle of partition. He further submits that in Clause 2 of the mode of partition, it was rightly observed that the land abutting the road being costly shall be given to the parties as per their shares in the land. He concluded by submitting that Assistant Collector 1st Grade has committed no error of law, while passing the impugned order (Annexure P-7) and the same deserves to be upheld.

When confronted with the abovesaid statement made by learned counsel for respondent No.3, learned counsel for the petitioners had no answer and rightly so, it being a matter of record. In this view of the undisputed fact situation obtaining on record of the present case, this Court is of the considered opinion that the impugned order (Annexure P-7) passed by Assistant Collector 1st Grade has not been found suffering from any patent illegality or perversity. In fact, petitioners want to grab maximum land abutting the road at the cost of their co-sharer-respondent No.3. In case, such unreasonable request made on behalf of the petitioners is accepted, it will cause serious prejudice to respondent No.3, which cannot be permitted. Further, no prejudice, of any kind whatsoever, has been caused to the petitioners by passing the impugned order, which may warrant interference, at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

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 the impugned order (Annexure P-7) passed by

Assistant Collector 1st Grade, Dasuya has not been found suffering from any patent illegality, the same deserves to be upheld. The 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, present writ petition stands dismissed, however, with no order as to costs.

18.10.2016
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

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