

Civil Writ Petition No. 17125 of 2016

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

Civil Writ Petition No. 17125 of 2016

Date of Decision: 23.11.2016

Jai Bhagwan and others

.....Petitioners

Vs.

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Dr. Naresh Kaushik, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the order dated 26.6.2016 (Annexure P-10) passed by the Financial Commissioner, Haryana, whereby revision petition filed by the petitioners was dismissed and the order dated 12.3.2014 (Annexure P-8) passed by the Commissioner, Rohtak Division, Rohtak, as well as remand order dated 31.7.2012 passed by the Collector, were upheld, 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 orders.

Heard learned counsel for the petitioners.

It is a matter of record that mode of partition came to be finalised between the parties vide order dated 13.2.2012 (Annexure P-3).

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However, at the time of finalising the partition proceedings, abovesaid mode of partition was glaringly violated by Assistant Collector 1st Grade. This was the reason that respondent No.5 filed his appeal which was rightly accepted by the Collector, while passing the remand order dated 31.7.2012 (Annexure P-6). Petitioners approached the Commissioner by filing their appeal, which was dismissed vide order dated 12.3.2014 (Annexure P-8). Similarly, their revision was also dismissed by the Financial Commissioner vide impugned order dated 26.6.2016 (Annexure P-10). Hence this writ petition.

During the course of hearing, when confronted with the abovesaid fact situation obtaining on record of the present case, learned counsel for the petitioner had no answer and rightly so, it being a matter of record. Once the mode of partition stands violated at the hands of Assistant Collector 1st Grade, the Collector was well within his jurisdiction to pass the impugned remand order, which would be in the interest of all the co-sharers. The Collector directed the Assistant Collector 1st Grade to re-consider the matter and finalise the partition proceedings, strictly in accordance with the mode of partition, which had already attained finality between the parties. Having said that, this Court feels no hesitation to conclude that since the Collector committed no error of law, while passing the impugned remand order and the same has been upheld by the Commissioner as well as Financial Commissioner, all the three impugned orders deserve to be upheld.

Learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned orders, because of which the same deserve to be upheld. Further, learned counsel for the petitioners could not point out any prejudice, which might have been caused to the petitioners, by passing of the impugned orders, warranting interference at the hands of

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

Since the partition proceedings are pending for quite some long time, the competent authority shall make an endeavour to conclude the partition proceedings at an early date, by passing an appropriate order, strictly in accordance with law and also keeping in view the directions issued by the Collector in his remand order dated 31.7.2012 (Annexure P-6), but in any case within a period of six months from the date of receipt of certified copy of this order.

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

(RAMESHWAR SINGH MALIK)
JUDGE

23.11.2016
Ak Sharma

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