

Civil Writ Petition No. 20223 of 2016 (O&M)

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

**Civil Writ Petition No. 20223 of 2016 (O&M)
Date of Decision: 18.10.2016**

Satya Devi and others

.....Petitioners

Vs.

Financial Commissioner, Revenue, Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. B.S. Bedi, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK J. (ORAL)

Petitioners, by way of present writ petition, are challenging orders dated 18.9.2007 (Annexure P-1), dated 18.2.2008 (Annexure P-4), dated 23.3.2010 (Annexure P-5), dated 18.6.2010 (Annexure P-7), dated 22.6.2010 (Annexure P-8), dated 30.7.2010 (Annexure P-9), dated 12.5.2015 (Annexure P-10) and dated 8.8.2016 (Annexure P-11) passed by the respondent revenue authorities, whereby joint land between the parties was partitioned, as per their respective shares.

Heard learned counsel for the petitioners.

When the case came up for hearing on 28.9.2016, learned counsel for the petitioners raised the argument that petitioners were not granted opportunity of being heard by the respondent authorities. In this view of the matter, learned counsel for the petitioners was directed to place on record the report of process serving agency, by passing the following

order:-

“Learned counsel for the petitioners is directed to place on record the report of process serving agency made on the initial notices issued to the petitioners, report qua notices issued by registered post and finally the report regarding munadi (declaration).”

In compliance of the abovesaid order, petitioners placed on record Annexures P-12 and P-13 by way of CM No. 12658-CWP-2016. On perusal of the service report (Annexure P-12), when it was found that Sh. Mai Lal accepted notices on behalf of his co-sharers and brothers but learned counsel for the petitioners was denying that fact, he was directed to file a specific affidavit of Mai Lal, by passing the following order dated 3.10.2016:-

“As per service report dated 20.11.2006 (Annexure P-12), Shri Mai Lal accepted notices on behalf of his co-sharers and brothers namely; Sultan Singh, Jai Bhagan, Mange Ram, Lakhmi Chand, Mai Chand, Bala Ram and Balwan. However, learned counsel for the petitioners submits that Mai Lal never accepted notices on behalf of his brothers.

If that is so, let Mai Lal file his specific affidavit in this regard.”

In compliance of the abovesaid order passed by this Court, affidavit of Mai Lal was sought to be placed on record by way of CM No. 13136-CWP-2016, which was allowed by a separate order. Since contention raised by learned counsel for the petitioners on 3.10.2016 was contrary to the official record of process serving agency in the form of service report dated 20.11.2006, petitioner-Mahi Lal, in his affidavit dated 15.10.2016, tried to justify his stand, contending that he was not told that some case for

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partition was pending against him or his brothers. Since this averment taken on behalf of the petitioners is contrary to the official record, it cannot be accepted. In fact, petitioners were duly served in the partition proceedings. However, when they did not appear despite due service, they were proceeded against ex-parte.

It is also a matter of record that petitioners never moved any application for setting aside the order, whereby they were proceeded ex-parte. Further, it is neither pleaded nor argued case on behalf of the petitioners that they were not granted their due share in the joint khewat. All the revenue authorities have recorded their concurrent findings of fact, thereby committing no error of law.

During the course of hearing, when confronted as to why the petitioners did not challenge the order whereby they were proceeded against ex-parte, learned counsel for the petitioners had no answer and rightly so, it being a matter of record. Once the partition proceedings have already attained the finality between the parties and that too long ago, this Court would be exceeding its jurisdiction, while entertaining such a misconceived petition, exercising its extraordinary writ jurisdiction under Articles 226/227 of the Constitution of India.

Further, learned counsel for the petitioners failed to point out any prejudice or substantial injustice which might have caused to the petitioners, while passing the impugned orders, warranting interference at the hands of this Court. In fact, thrust of the arguments raised by learned counsel for the petitioners was that petitioners were not duly served. This contention has been found running contrary to the official record, particularly service report of process serving agency, whereby Mai Lal-

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petitioner duly received the notice on behalf of his co-sharers and brothers.

It was so recorded by the process server in his report dated 23.11.2006, at page 119 of the paper book. Thereafter, even proclamation was conducted in the village of the petitioners. Still further, if the petitioners were feeling aggrieved, it was least expected from them to challenge the order whereby they were proceeded against ex parte, by moving an appropriate application, however, they did not do so, for the reasons best known to them. None of the impugned orders passed by the revenue authorities has been found to be suffering from any patent illegality or perversity and the same deserve to be upheld for this reason also.

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.

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

18.10.2016
Ak Sharma

(RAMESHWAR SINGH MALIK)
JUDGE

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