

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CWP No.20342 of 2016
Date of decision:07.11.2016**

Pritpal Singh and another

...Petitioners

Versus

Financial Commissioner Revenue, Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: None for the petitioners.

Mr.Manish Kumar Singla, Advocate for the caveators.

RAMESHWAR SINGH MALIK, J. (Oral)

Present writ petition is directed against the order dated 04.07.2016, passed by the Financial Commissioner, Punjab, whereby he remanded the matter back to Assistant Collector 1st Grade, Lehragaga, with a direction to decide the partition afresh, in accordance with law.

When this case came up for hearing on 29.09.2016, a request for adjournment was made on behalf of the learned counsel for the petitioner and the case was accordingly adjourned for today.

Case has been called twice.

Neither anybody has come present to press this petition nor any request for pass over has been made on behalf of the petitioners.

Relevant part of the order dated 04.07.2016 passed by the Financial Commissioner available at page 21 of the paper book, reads as under:-

“Brief facts of this case are that present respondent No.2 and 3 had filed an application before the Assistant Collector 1st Grade, Lehragaga for partition of joint land measuring 70 Kanal 11 Marlas of Village Gidriani, Tehsil Lehragaga, District Sangrur against the present petitioners as well as other co-sharers of the suit land. After completing all the requisite formalities, Assistant Collector 1st Grade, Lehragaga had sanctioned the 'Mode of Partition' and called Naksha 'Arra' and 'irri' from the field revenue staff vide order dated 15.3.2013. Thereafter, Assistant Collector 1st Grade had approval Naksha 'Arra' and 'Irri' vide order dated 22.3.2013 and lastly he had sanctioned the final instrument of partition i.e. 'Sanad Taksim' vide order dated 20.4.2013. Hence, the present revision petition.

Arguments of both the counsels were heard. The petitioners pleaded that the respondent 2 & 3 filed application of partition on basis of 2008 Jamabandi against Avtar Singh S/o Dalip Singh. Where as Avtar Singh had expired on 20.9.2000.

Hence instead of impleading the Lrs of Avtar Singh he chose to file the partition against the dead person. Secondly the Assistant Collector 1st Grade, Lehragaga has shown undue haste in sanctioning Naksha irri & Naksha Urri in totally irregular manner.

The counsel of respondents didn't contradict the claims of petitioner. The counsel simply told that petitioner has no stake in the property since their name does not figure in Jamabandi. Yes their names were not present but name of their predecessor in interest is there on record, who was dead and couldn't protect their interest.

In light of above points the decree against dead person can't sustain. I accept the revision petition and dispose off the case with direction to Assistant Collector 1st Grade, Lehragaga

to substitute LR's of all dead stake holders, hear all stake holders properly and decide the partition by a fresh order following the process of law."

A bare perusal of the above-said impugned order would show that the learned Financial Commissioner, Punjab committed no error of law, while passing the above-said impugned order. He has rightly remanded the case to Assistant Collector 1st Grade, Lehragaga to pass an appropriate order, in accordance with law.

Under these undisputed circumstances, no prejudice would be caused to the petitioner, because they would also have every opportunity to put up their case before the Assistant Collector 1st Grade. It also goes without saying that Assistant Collector 1st Grade shall grant an appropriate opportunity of being heard to both the parties, before passing the fresh order, in compliance of the impugned remand order passed by the Financial Commissioner.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the 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 above-said observations made, the present writ petition stands dismissed, however, with no order as to costs.

07.11.2016
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No