

CWP No.27400 of 2015

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

CWP No.27400 of 2015 (O&M)

Date of decision: 06.05.2016

Gurpreet Singh and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Namit Gautam, Advocate, for the petitioner.

Mr. B.S. Cheema, DAG, Punjab.

Mr. S.N. Saini, Advocate, for the applicants.

PARAMJEET SINGH DHALIWAL, J. (ORAL)

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Instant writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of *mandamus* directing the official respondents to deliver the physical possession of the partitioned land owned by petitioners in the revenue estate of Kishanpura, Derabassi in misal No.10 of 2011 on the basis of order of partition dated 27.05.2013 passed by Assistant Collector 1st Grade, Derabassi.

Mr. Karamjeet Singh, Naib Tehsildar, Zirakpur, is present in Court and states that possession has been delivered to the petitioners.

In view of above, present petition has been rendered

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infructuous.

Dismissed as infructuous. However, respondents will be at liberty to raise all the pleas before the concerned authority or challenge the order of delivery of possession in accordance with law.

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Instant application under Order 1 Rule 10 read with Section 151 of the Code of Civil Procedure has been filed for impleading the applicants as respondents in the writ petition.

I have heard learned counsel for the applicants and perused the record.

Learned counsel for the applicants contends that the applicants are the sons of Hakam Singh and are co-sharers in the land regarding which partition application was filed. Without impleading the applicants as party, partition proceedings have been concluded and *sanad takseem* has been prepared and even during the pendency of the present writ petition, possession has been delivered to the petitioners. Learned counsel for the applicants further contends that in the *sanad takseem* no land has been given to the applicants. Learned counsel further contends that in all the applications for partition, cosharers are the same and partition applications have been filed khewatwise.

I have considered the contentions raised by learned counsel for the applicants.

Once the case of the applicants is that they have not been impleaded as party to the partition applications and order of partition has

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been passed at their back, the remedy available to the applicants is to move appropriate application before the authority which has passed the partition order. The power of Assistant Collector Ist Grade to set aside ex parte order by way of review is also there.

Learned counsel for the applicants states that appropriate application was moved, however, the same has been declined. Against that applicants have preferred revision petition, which is still pending. In addition to it, civil suit has already been filed.

Since the possession has been delivered, no ground for impleading the applicants as respondents is made out.

Dismissed. However, applicants will be at liberty to challenge the orders passed against their interests in accordance with law.

(Paramjeet Singh Dhaliwal)
Judge

May 06, 2016
R.S.