

206

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11899-2013

Date of decision : 03.04.2017

Sukhjinder Singh and others

... Petitioner(s)

Versus

Financial Commissioner (Cooperation), Punjab and
others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.S. Salar, Advocate
for the petitioners.

Mr. Yatinder Sharma, Addl. A.G. Punjab.

Mr. Onkar Singh, Advocate
for respondent Nos.5, 7 and 12.

AMIT RAWAL, J. (ORAL)

The petitioners' grievance primarily, in the present writ petition, which is sought to be reflected from the zimini orders extracted in the writ petition is that despite having not deposited the *munadi* fee upto 14.03.2000, yet the petitioners have been proceeded *ex parte* in the partition proceedings initiated by respondent(s). A reference to the report of Chowkidar dated 02.02.2000 regarding conducting of the *munadi* for the date fixed i.e. 09.02.2000, thus, according to the arguments of Mr. S.S. Salar, is wholly misplaced.

This Court called upon Mr. S.S. Salar to apprise this Court as to what possible objection could have been taken had their clients been put in appearance and raised the objection as the entire partition proceedings by

now have already been culminated into a final partition order. The factum of the same is being reflected from the site plan handed over by Mr. Onkar Singh, during the course of hearing and the land shown in yellow colour, has fallen to the share of the petitioners.

Learned counsel for the petitioners has pointed out with regard to the third tak on the top of the site plan, there is no approach or passage to the same as the petitioners have to travel a longer distance and the area in between belong to Lashkar Singh, there is no passage, in essence, the path as shown in the right-hand side of the plan would consume a lot of time, much less, wastage of fuel. It is the said objection which was to be taken up for the purpose of giving the complete affect to the partition proceedings.

On the contrary, Mr. Onkar Singh, learned counsel appearing on behalf of respondent Nos.5, 7 & 12 submits that even there is a village passage on the right-hand side of the plan, which the petitioners can use for access of the land to the 3rd and 4th tak on the top of the map and the same analogy is applied, even, the area shown in the green colour, which is fallen to the share of the respondent(s) has no passage, thus, there is a equal distribution of the land qua quality and potentiality. No harm and prejudice has been caused to the petitioners. The filing of the writ petition is nothing, but an act of aggrandizement, much less, an attempt to tire out the parties to seek the remand of the order by conducting the partition proceedings afresh.

I have heard the learned counsel for the parties and appraised the paper book and seen the site plan/*naksha* shown during the course of the hearing, which is not rebutted by Mr. S.S. Salar. For the 1st and 2nd tak, there is no dispute as the same have an access. Even 3rd and 4th tak, there is an access, but away from the land of 2nd tak. The inconvenience expressed

during the course of hearing, in my view, would pale into insignificance as the share of co-owner has to be determined in the best possible manner which has been done in the present case. Even a smaller portion of land, shown in the green colour, at upper/right-hand side of the site plan, does not show to be any passage from the land of the petitioners, but in such situation, the respondent(s) was also have to take a longer route for the purpose of cultivation and irrigation, thus, all the parties are at a same pedestal, thus, no harm and prejudice has been caused shown during the course of hearing. In my view, the remanding the matter back on this hypertechnical ground, would pale into insignificance, once the partition proceedings had already culminated into final partition order reflected from the site plan reflects the equal distribution by taking into consideration the potentiality and the quality of the land.

Keeping in view the aforementioned facts, I do not find any illegality and perversity in the impugned order, under challenge, much less, no ground is made out for interference and accordingly, the present writ petition is dismissed.

03.04.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No