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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-15110-2012

Date of decision : 06.03.2017

Balbir Singh

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mrs. Munisha Gandhi, Senior Advocate with
Ms. Sukhmani Kang, Advocate and
Ms. Salina Chalana, Advocate
for the petitioner.

Mr. Sandeep Singh Mann, Sr. DAG, Haryana.

Mr. Ashok Verma, Advocate
for respondent Nos.5 to 8.

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned orders dated 02.06.2000 (Annexure P-4), 14.10.2005 (Annexure P-7), 26.04.2007 (Annexure P-8), 02.08.2007 (Annexure P-9) and 02.09.2011 (Annexure P-10), whereby, after remand from the Commissioner with regard to the objections filed against the *Naksha be*, the objections have been dismissed by the Collector, Commissioner and reiterated by the Financial Commissioner.

Mrs. Munisha Gandhi, learned Senior Counsel assisted by Ms. Sukhmani Kang and Ms. Salina Chalana, learned counsel appearing on behalf of the petitioner submits that both the petitioner and private

respondent No.5 are the brothers. The total holding of the land between the parties is 681 kanals 15 marlas. The alleged finding of the authorities below is based upon the compromise/family settlement dated 30.06.1970. The mode of partition was allegedly drawn on the basis of the same, which was emphatically denied. In fact, the mode of partition (Annexure P-1) reflects that the petitioner is not the signatory. On the basis of mode of partition, *naksha be* was prepared, which was objected to, but the authorities below have ignored the aforementioned fact. The petitioner has been deprived of superior quality of land which is evident from the site plan (Annexure P-1/A). All the authorities under the Act, have, thus, ignored the aforementioned fact and matter is liable to be remanded back.

On the contrary, Mr. Ashok Verma, learned counsel appearing on behalf of the private respondent(s) submits that the private respondent(s) filed an application for partition under Section 111 of the Punjab Land Revenue Act. The application contained a specific recital with regard to the family settlement of 1970, which was objected to, in the absence of any written statement. In fact a compromise was also entered into in the *bahi* of the answering respondent(s) (Annexure P-11), whereas the certified copy of the *bahi* shown during the course of the hearing, reflects the signatures of Balbir Singh. It was a mutual understanding. As a result of the aforementioned mode of partition, the parties have been put to possession. There was no objection qua mode of partition. *Naksha Be* was objected to and the same, on remand, has been affirmed by all the authorities, thus, there is no illegality and perversity in the impugned orders under challenge and urges this Court for dismissal of the present writ petition.

I have heard the learned counsel for the parties and appraised

the paper book.

Shorn of the facts, noticed above, the conceded position on record is that in an application under Section 111 of the Punjab Land Revenue Act, no written statement had been filed, which fact is evident from any order. There is a specific recital of the aforementioned family settlement/compromise.

Another conceded position on record is that no objection was filed against the mode of partition, but only against the *naksha be*. Mode of partition has been drawn as per the family settlement/compromise and the parties have already enjoined the possession in terms of the aforementioned recital. The certified copy of the *bahi* of the petitioner reflects his signatures, thus, there is no force and merit in the submissions of Ms. Munisha Gandhi, learned Senior Counsel that (Annexure P-11) does not bear the signatures of the petitioner. It was an arrangement in order to have complete faith, much less, rule out the attempt of back-tracking. The Financial Commissioner while dismissing the revision petition has granted the relief of passage/*rasta* of 3 *karams* to the petitioner, thus, it is too late in a day for the petitioner to allege with regard to the quality of land as he had not objected to the same in the family settlement, which has not been challenged in either of the proceedings. Had it been so, perhaps the petitioner would not have only defended the partition proceedings, but could have taken the other measures like lodging of FIR or complaint to the Police etc.. In my view, the parties are in continuance of possession in pursuance to the partition proceedings already effected way back in the year 1970. The order dated 14.10.2005 upheld the entire finding and there was no interim order in all the aforementioned proceedings. The filing of the

writ petition is nothing, but an act of aggrandizement/greed.

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

06.03.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

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