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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-1609-2012 (O&M)
Date of decision : 17.03.2017

Swarup Singh

... Petitioner(s)

Versus

Financial Commissioner (Revenue), Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Harkesh Manuja, Advocate
for the petitioner.

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

Mr. R.A. Sheoran, Advocate
for respondent No.5.

AMIT RAWAL, J. (ORAL)

The petitioner is the respondent(s) in an application under Section 111 of the Punjab Land Revenue Act, 1887 (for short 'the 1887 Act').

The grievance of the petitioner is that he has been proceeded *ex parte* without adhering to the provisions of 20 of the 1887 Act. Only the summons and *munadi* had been effected, whereas there is no compliance of the provisions of sub-Section 3 of Section 20 of the 1887 Act, which reads as under:-

"(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to

such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested."

No doubt the petitioner had moved an application for setting aside the *ex parte* proceedings and the Assistant Collector, 2nd Grade, Charkhi Dadri, allowed the petitioner to join the proceedings at the stage when the *naksha kha*, which was prepared after mode of partition, but the contention of the learned counsel for the petitioner is that in the absence of any stand, much less, mode of partition being not in consonance with the exact position, the objection is inconsequential. The appeal and revision against the dismissal of the application, much less, the order allowing him to join the proceedings have erroneously been dismissed.

Mr. R.A. Sheoran, learned counsel appearing on behalf of respondent No.5 submits that the petitioner is not a co-sharer and he is only an agreement holder. A suit filed for seeking specific performance has been dismissed, but the RSA is stated to be pending in this Court.

In rebuttal, Mr. Harkesh Manuja, learned counsel appearing on behalf of the petitioner submits that the petitioner was arrayed as respondent(s) in the petition, much less, in the revenue record i.e. jamabandi, he has been shown as co-sharer to the extent of 1/10th share.

Be that as it may, the fact remains that once there is no compliance of the provisions of sub-Section 3 of Section 20 *ibid*, the proceedings have to be initiated *de novo*.

Keeping in view the aforementioned facts, the impugned orders under challenge are hereby set aside and the matter is remitted back to the Assistant Collector, 2nd Grade, Charkhi Dadri to decide the controversy

afresh as expeditiously as possible preferably within a period of four months from the date of the receipt of the certified copy of this order. The parties shall be at liberty to lead evidence in support of their respective pleas for the purpose of preparation of mode of partition.

Learned counsel for the parties and as well as the parties are directed to appear before the Assistant Collector on 07.04.2017.

With the aforesaid observations, the present writ petition stands disposed of.

17.03.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

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