

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.12260 of 2015

Date of Decision: March 07, 2017

Ishar Singh & others

...Petitioners

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.NPS Mann, Advocate,
for the petitioners.

Mr.Yatinder Sharma, DAG, Punjab,
for the State.

Mr.A.K.Sharma, Advocate
for respondent No.3.

Mr.D.K.Singal, Advocate,
for respondent Nos.4 & 5.

AMIT RAWAL, J. (Oral)

Petitioners are aggrieved of the impugned order dated 7.5.2015 (Annexure P-4), whereby the mode of partition has wrongly and illegally been prepared on the premise that the parties to the lis had already partitioned the land about 50 years ago and the revenue record shows the reflection of the possession.

Mr.NPS Mann, learned counsel for the petitioners submits that the site plan (Annexure P-6) shows that the orange portion had already been given to respondent No.3, who is in possession and, therefore, the mode of partition suggesting the possession is totally erroneous.

Mr.A.K.Sharma, learned counsel for respondent No.3 and Mr.D.K.Singal, learned counsel for respondent Nos.4 and 5 refuted the argument of Mr.Mann by submitting that mere exclusive possession of a co-

sharer does not divest his ownership from the entire portion of the land until and unless the same is partitioned by metes and bounds. In support of their contention, rely upon the judgment rendered by the Division Bench of this Court in **Bachan Singh Versus Swaran Singh, 2000 (3) RCR (Civil) 70** and reiterated by Full Bench in **Bhartu Versus Ram Sarup, 1981 PLJ 204**. They further submit that in the arrangement already entered into between the co-sharers, the respondents have not been given any benefit of superior quality of land close to the road. The aforementioned site plan is nothing but an aks-shijra. There is no dispute to the aks-shijra and, thus, urge this Court for dismissal of the writ petition.

I have heard the learned counsel for the parties, appraised the paper book and of the view that in view of the ratio decidendi culled out by the Division Bench judgment of this Court in **Bachan Singh's case (supra)**, every co-owner is owner of every inch of land until and unless the same is partition. Mere arrangement arrived at in the absence of reflection of the same in the revenue record does not entail into partition proceedings culminated between the co-sharers. The record does not reflect the partition proceedings except the exclusive possession.

In my view, the mode of partition setting the possession of the parties is perfectly legal and justified. No ground for interference is made out.

Writ petition stands dismissed.

March 07, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No