

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.11950 of 2017
Date of Decision: May 30, 2017

Major Singh & others

...Petitioner

Versus

Financial Commissioner, Punjab, Chandigarh & others

...Respondents

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

Present: Mr.Parvinder Singh, Advocate,
for the petitioner.

Mr.Aditya Dassaur, Advocate,
for caveator-respondent No.5.

AMIT RAWAL, J. (Oral)

Petitioners, eight in number, are aggrieved of the orders dated 2.2.2017 (Annexure P-11) rendered by the Financial Commissioner and 1.4.2016 (Annexure P-10) of the Commissioner.

Mr.Parvinder Singh, learned counsel for the petitioner submits that the Collector, vide order dated 6.2.2015 (Annexure P-8) in an appeal preferred by the petitioners, had set-aside the order dated 14.8.2014 (Annexure P-6) rendered by the Assistant Collector Grade-I and remanded the matter back on the premise that the Assistant Collector Grade-I had dismissed the objections without hearing them, much less had not passed a speaking order. The opposite party, i.e., Gian Singh, who has share to the extent of 12 kanals 3 marlas out of total land measuring 74 kanals 18 marlas in four khewats, preferred an appeal which was allowed by the Commissioner and upheld by the Financial Commissioner.

He further submits that, in fact, as per the site plan (Annexure P-14), the shaded portion abutting the main road has been given to Gian Singh and unshaded to the petitioners. Even the co-sharers have been given the share in the khewats, in which they are not co-sharers. The petitioners have been deprived of filing their objections against the field paper or Naksha-Arra. The front abutting the main road has been unfairly distributed as more valuable land has been given to Gian Singh and has relied upon the civil proceedings. As per Annexure P-19, the Sanad Taqsim has already been ordered to be issued and further Naksha-Erri has been ordered to be read as part of the Sanad Taqsim and, thus, the orders under challenge are not sustainable in the eyes of law and liable to be set-aside.

Mr.Aditya Dassaur, learned counsel for caveator-respondent No.5 submits that even the warrants of possession have been executed. The site plan does not depict the irrational distribution of the land as shaded portion is far away from the main road, whereas the unshaded portion has been given to Major Singh etc., which is adjacent to the main road and, therefore, there is no question of unequal distribution of inferior/superior quality, much less valuable land. All these factors have been taken into consideration by the authorities and do not call for any interference.

I have heard the learned counsel for the parties, appraised the paper book and of the view that there is no force and merit in the submissions of Mr.Parvinder Singh, for, the site plan Annexure P-14, relied upon by the petitioners, does not support their case as the shaded portion has been shown to be the property of Gian Singh, which is far away from the main road, therefore, the argument of unequal distribution of superior quality of land adjacent to the main road is wholly misplaced and ill-

founded and hereby rejected.

This Court had called upon the learned counsel for the petitioners repeatedly as to how the petitioners are prejudiced with the site plan, i.e., the tatima, but except that the triangular portion on the extreme top of the road has been given to five co-sharers. They are together. Had it been the case of one of the co-sharers, perhaps it should have been so, whereas so long they are together, espousing the cause of each other harmoniously.

In my view, the findings rendered by the Commissioner and the Financial Commissioner upholding the order of the Assistant Collector and setting-aside the order of the Collector are perfectly legal and justified. The Collector, while remanding the matter back, has not assigned any reasons. The relevant portion of the order reads thus:-

“The written arguments of the Counsel for the parties were read in detail. The record received from the Learned Lower Court was seen. The file was seen. The counsel for the parties presented their written arguments and after seeing the record it transpires that before the Learned Lower Court the Appellant had presented his objections but the Learned Lower Court has dismissed the objections of the Appellant without hearing them and the Learned Lower Court has not passed any speaking order, therefore, keeping in view the aforesaid facts and agreeing with the arguments of the Appellant the order of Tehsildar-cum-A.C.Ist Grade Nawanshahr dated 14.08.2014 is set aside and the case is remanded to Tehsildar-cum-A.C.Ist Grade Nawanshahr with directions that this case be decided on merits after hearing the parties again and after hearing the objections submitted by them. The parties are directed to remain present on 27.04.2015 in the Court of Tehsildar-cum-A.C.Ist Grade Nawanshahr. A copy of this order be sent along with the Lower Court file. The file of this Court be consigned to

record room after indexing.”

In fact, no head and tale has been made by the aforementioned operative part of the order. On the contrary both the authorities found that the Assistant Collector Grade-I, after visiting the spot and after giving opportunity of hearing to the parties, sanctioned the final partition. It appears that the petitioners are unnecessarily dragging Gian Singh, representing by the learned counsel for the caveator, much less it is a case of aggrandizing the litigation. The orders cannot be said to be vitiated in law or are perverse. They are accordingly affirmed.

Writ petition stands dismissed.

May 30, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No