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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-19702-2014

Date of decision : 15.02.2017

Jagdish and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikram Singh, Advocate
for the petitioners.

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

Mr. Aman Pal, Advocate
for respondent Nos.5 to 12..

AMIT RAWAL, J. (ORAL)

Learned counsel for the petitioners submits that the petitioners, who are the respondents in a partition application filed under Section 111 of the Punjab Land Revenue Act, seeking partition of 1112 kanals 4 marlas of the land, moved an application by taking a preliminary objection with the regard to the maintainability of the petition on the ground that the respondent(s), herein, had sold the land to third person in the year 1959 and therefore, in the absence of impleadment of co-owner, application for partition was not maintainable as the partition has been sought only of khewat No.1 and the land was sold from khewat No.2, thus, it is hit by the 'doctrine akin to partial partition'. All these facts were specifically raised and taken, but not taken care of and therefore, the findings of the

Authorities below i.e. Assistant Collector 1st Grade, Collector,

Commissioner, Financial Commissioner, are totally erroneous, much less, perverse. He relies upon the *ratio decidendi* culled out by the Full Bench's judgment of this Court rendered in "**Ram Chander V/s Bhim Singh and others**" 2008 (3) RCR (Civil) 685.

Mr. Aman Pal, learned counsel appearing on behalf of the private respondent(s) Nos.5 to 12, herein, and the applicants in the application seeking partition, submits that there is a specific pleading in the application that they are not co-owners with regard to khewat No.2, thus, it cannot be a case of partial partition. An attempt is being made to stall the partition proceedings by adopting all possible means. The application for partition was filed way back in the year 2009 and almost 8 years have elapsed. The petitioners have succeeded in delaying the matters, thus, urges this Court for dismissal of the present writ petition with exemplary cost.

I have heard the learned counsel for the parties and appraised the paper book. No doubt the petitioners have taken the specific objection in the written statement qua the fact that the other joint owners have not been arrayed as a party as the LR's of Kewal Ram and Parsa are still recorded to be joint owners to the remaining land measuring 1112 kanals 4 marlas comprising in khewat No.1, but this would not be a case of preliminary objection. The petitioners can press the issue and lead an evidence. I am of the view that the petitioners have been successful in delaying the matter of the partition by taking the plea of partial partition and non-impleadment of the other co-sharers, whereas there is a categorical pleading of the respondent(s) that they are not the co-owners of khewat No.2. It is a settled law that the separate application for partition of every khewat is to be filed, thus, in my view, the entire exercise in assailing the

order is nothing, but an attempt to tire out the respondent(s).

For the reasons aforementioned, I am of the view that the order declining the application/request of the petitioners to decide the question of title by relegating the party to a civil court is totally preposterous, much less, morbid.

For the foregoing reasons, 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.

Nothing observed herein above, shall be construed as an expression of opinion on the merits of the partition proceedings stated to be pending.

15.02.2017 Yogesh Sharma	(AMIT RAWAL) JUDGE
	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No