

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No.26705 of 2013

Date of decision: March 24,2017

Manjit Singh and another

...Petitioners

v.

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.Deepak Verma, Advocate for the petitioners.  
Ms.Monica Chhibber Sharma, DAG, Punjab.  
Mr.Sanjay Majithia, Senior Advocate with  
Mr.Inderjeet Singh, Advocate for respondent No.1.

AMIT RAWAL,J.

The petitioners are aggrieved of the impugned order dated 13.6.2012, Annexure P.5, whereby the Assistant Collector Ist Grade, Garhshankar has allowed the objections of the private respondent and amended the clause 7 of the mode of partition.

Learned counsel for the petitioners submits that in para 7 of the mode of partition, the passage was to be kept separate as it was to be carved out from the passage indicated in the site plan, whereas, the private respondents carved out their passage indicated in the site plan Ex.P1. By referring Ex.P1, learned counsel submits that the passage shown in the green colour is being used by the petitioners and their brothers Daya Singh and Gurdev

Singh, whereas, the private respondents have a passage shown in red colour. The gate is towards the same. Thus, there was no occasion for the Assistant Collector Ist Grade to allow the objections of the private respondent and amend the clause 7 of the mode of partition.

Learned senior counsel appearing for the private respondent No.3 submits that there is a disputed questions of fact which cannot be gone into a writ petition. The remedy of appeal is to be exhausted for the aforesaid relief.

I have heard learned counsel for the parties and am of the view that while accepting the objections of private respondent, the Assistant Collector Ist Grade should have taken note of the arguments of respective parties and given reasons for its conclusion. The impugned order is of non-application of mind.

With regard to objection of maintainability of the writ petition, Mr.Verma has explained that no doubt at the relevant time, the remedy of appeal was available against the impugned order dated 13.6.2012. However, an application was moved on 7.7.2012 for procuring the certified copy of the aforesaid order dated 13.6.2012 which was prepared on 11.9.2013. During the interregnum period, vide the notification dated 28.1.2013, the Punjab

Land Revenue (Amendment) Act, 2012 (Punjab Act No.5 of 2013) came into being whereby the remedy of appeal/revision has been taken away.

In view of the above, the objection with regard to maintainability of the writ petition pales into insignificance.

Accordingly, the order dated 13.6.2012, Annexure P.5, is set aside. The matter is relegated to the Assistant Collector Ist Grade, Garhshankar to decide the objections raised to the mode of partition, Annexure P.2 afresh after affording an opportunity of hearing and referring to the material put-forth before it. Let this exercise be completed within a period of two months from the date a certified copy of this order is received.

With the aforesaid observations, the writ petition is disposed of.

March 24, 2017  
KD

(AMIT RAWAL)  
JUDGE