

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.24613 of 2017
Date of Decision: 31st October, 2017

Malkiat Singh and others

. . . . Petitioners

Vs.

Charan Singh and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Ms.Supriya Garg, Advocate,
for the petitioners.

Mr.Sherry K. Singla, Advocate,
for the caveator.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioners have challenged the orders dated 13.07.2011 passed by the Tehsildar-cum-Assistant Collector, Grade-I, Sultanpur Lodhi, 22.06.2015 passed by the Collector-cum-SDM, Sultanpur Lodhi, 17.05.2016 passed by the Commissioner, Jalandhar Division and 24.05.2017 passed by the Finance Commissioner.

In brief, respondents No.1 & 2 being the cosharers to the extent of 1/2 share of land measuring 7 kanal 8 marla, filed an application under Section 111 of the Punjab Land Revenue Act, 1887 [for short 'the Act'] for seeking partition of their joint khewat. There is no dispute that when the

mode of partition was proposed and accepted no objection was raised by the petitioners except that there was an oral exchange between the parties in respect of Khasra Nos.136/2, 136/2/1 and 133 which was mutated by mutation No.1135 sanctioned on 21.6.1978 but in the jamabandi there is no reference of khasra No.133 which is allegedly given in exchange to the petitioners.

The petitioners have assailed the validity of the order passed by the Financial Commissioner on the ground that there is a misreading of the revenue record.

On the other hand, learned for the respondents, who is on caveat, has submitted that the petitioners are blowing hot and cold in the same breath as they are relying upon the mutation No.1135 sanctioned on 21.6.1978 and at the same time had filed a Civil Suit No.106 of 2014 for seeking declaration that the said mutation No.1135 sanctioned on 21.06.1978 on the basis of oral exchange is null and void. It is also submitted that the petitioners did not take the plea of question of title at the time of filing of the reply to the partition application and even at the stage of mode of partition and had raised the same thereafter.

I have heard leaned counsel for the parties and after perusal of the record, am of the considered opinion that there is no error in the orders passed by the Courts below inasmuch as the petitioners cannot rely upon and discard the same document namely, mutation No.1135 sanctioned on 21.06.1978 on the basis of oral exchange rather the case of the respondents is that though they have 1/2 share in the land measuring 7 kanal 8 marla which is not denied by the petitioners but the petitioners wanted to keep

possession over the entire land in one way or the other and are contesting continuously before one Court after the other.

In view of the aforesaid facts and circumstances, I do not find any merit in the present petition and thus the same is hereby dismissed.

31st OCTOBER, 2017
Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No