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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7961-2014

Date of decision : 20.03.2017

Mange Ram and others

... Petitioner(s)

Versus

Financial Commissioner, Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vikas Arora, Advocate
for the petitioner(s).

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

Mr. M.S. Rana, Advocate
for respondent Nos.5 and 6.

Mr. Chander Shekhar, Advocate
for respondent No.10.

AMIT RAWAL, J. (ORAL)

The petitioner(s) are aggrieved of the impugned order dated 22.11.2010 (Annexure P-4) passed by the Collector, Rohtak, whereby the appeal against the order dated 20.08.2010 of the Assistant Collector 1st Grade, Sampla, has been allowed and the matter has been remanded back to the Assistant Collector 1st Grade/Naib Tehsildar, Sampla with direction for preparing amended *Naksha 'Bey'*.

Mr. Vikas Arora, learned counsel appearing on behalf of the petitioner(s) submits that respondent No.4/Assistant Collector, 1st Grade, Sampla, vide order dated 20.08.2010 dismissed the objections of the

respondent(s) and finally approved the *Naksha 'Kh'*. The aforementioned order was challenged in an appeal by the respondent No.5 before the Collector, who vide order dated 22.11.2010, remanded the matter back to the Assistant Collector 1st Grade. The petitioner(s) filed the revision against the remand order, but the same was dismissed vide order dated 28.11.2011 (Annexure P-5). In the meantime, the respondent No.4, vide order dated 05.08.2013, finalized the partition proceedings and prepared the *sanad taksim*. The said order was also challenged by filing a revision bearing ROR No.137/2013-14 before the Financial Commissioner, Haryana, but the same has been dismissed *in limine*, in essence, without issuing notice, thus, urges this Court for setting aside the impugned orders under challenge as the orders are not sustainable in the eyes of law.

Mr. M.S. Rana, learned counsel appearing on behalf of the respondent Nos.5 and 6 submits that possession has already been taken in pursuance to the passing of the *sanad taksim*, in essence, the partition proceedings have attained finality. The matter was only remanded back by the Collector, on the premise, that the *rasta* was being provided on the land of one particular person, whereas it should have been distributed equally. In this aspect of the matter, the amended *Naksha 'kh'* was prepared. There is no interim stay. The parties have resiled with the situation and continued to the possession according to the amended mode of partition, much less, *Naksha 'Kh'*. No useful purpose would be served in remanding back the matter to the Financial Commissioner, Haryana, even if the revision petition had been dismissed *in limine*.

I have heard the learned counsel for the parties and appraised the paper book and am in agreement with the submissions of Mr. M.S.

Rana, learned counsel appearing on behalf of respondent Nos.5 & 6 as the order of partition had been implemented way back in the year 2013, in essence, possession had been taken. There had been interim stay. The parties must have resiled with the situation. Even otherwise, the remand was only to protect the interest of one of the co-sharers as the *rasta* was provided only from his share-holding, in essence, his share-holding has been reduced. Thereafter the *rasta* has been provided by taking into consideration all the respective shares, in essence, no co-sharer is seriously prejudiced to the same. In my view, continuing with the writ petition is nothing, but an attempt to delay the partition proceedings, much less, tire out the parties to the *lis*.

Keeping in view the aforementioned facts and circumstances, 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.

20.03.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**