

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

CWP No.4864 of 2017

Date of Decision.09.03.2017

Lachhman Singh (NRI)

.....Petitioner

Vs

State of Punjab and others

.....Respondents

Present: Mr. Krishan Singh Dadwal, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The petitioner, who is an NRI, knocked the doors of this Court for ventilating his grievance by invoking the jurisdiction of this Court under Article 226 seeking the following relief:-

“Civil Writ petition under Articles 226 and 227 of the Constitution of India, praying for issuance of an appropriate writ, order or direction, especially a writ in the nature of certiorari, for quashing the order dated 17.02.2009 (Annexure P-3), whereby the respondent No.4 in connivance with the other revenue staff, has entered the partition as per the order dated 05.09.2008 (Annexure P-1), which stands already set aside by respondent No.2 and the said order stand upheld by the respondent No.1 as well as the Hon'ble High Court in CWP No.21534 of 2010, still by not adopting the corrective measures the further jamabandi for the year 2014-15 has been prepared and thereby nullifying the orders of the higher court, in furtherance to the conspiracy hatched by the subordinate revenue staff with the respondent No.7 and thereafter, despite the application, no proceedings have been taken out by respondent No.4, which would be apparent from the narration of factual position, which is being set out in the writ petition ; and

Further, as writ in the nature of mandamus directing the respondents to act upon the order dated 17.02.2009 (Annexure P-3) passed by respondent No.2 and thereby effect the partition of land in the manner in which the directions have been given by respondent No.2; AS ALSO

Any other order or direction, as this Hon'ble Court may deem just and proper, keeping in view the peculiar facts and circumstances of the

present case, may also kindly be passed.”

The petitioner was arrayed as respondent No.2 in the application filed under Section 111 of the Punjab Land Revenue Act filed by respondent No.7-Paramjit Singh along with his brother Lakhvir Singh, seeking partition of Khewat No.14/16, Khasra No.22/3/2 measuring 6 kanals 14 marlas of land situated in village Jalalpur Khurd, Tehsil Shahkot, District Jalandhar. The petitioner filed the objections in the aforementioned petition on the premise that he is in exclusive possession but the same were dismissed vide order dated 05.09.2008 (Annexure P-1) passed by the Assistant Collector 1st Grade on the ground that the land in dispute is joint khata and accordingly, the mode of partition was prepared.

The petitioner preferred an appeal before the Collector against the order passed by the Assistant Collector but the same was dismissed vide order dated 14.11.2008 (Annexure P-2). Against the aforementioned order, appeal was preferred before the 2nd respondent-Commissioner, who vide order dated 17.02.2009 (Annexure P-3) remanded the matter back to the Assistant Collector to decide the matter afresh after calling objections from the parties against the partition. Against the remand order, the respondent No.7 preferred the revision petition before the Financial Commissioner, which was dismissed vide order dated 05.10.2010 (Annexure P-4). The matter did not end there and against the order of the Financial Commissioner, civil writ petition bearing No.21534 of 2010 was filed but the same also met with the same fate, in essence, dismissed vide order dated 21.11.2014 (Annexure P-6).

Thereafter, the petitioner made efforts through power of attorney for finalization of the partition proceedings but the revenue

authorities did not pay attention to the same whereas attempts were made by the respondents for interfering into the peaceful possession of the petitioner on the basis of partition proceedings. The petitioner filed civil suit on 01.04.2013 seeking injunction and the Civil Judge (Junior Division), Nakodar on 16.09.2015 (Annexure P-7) granted injunction in favour of the petitioner restraining the respondents from interfering into his peaceful possession and dispossessing unlawfully.

However, during the inspection of the revenue record, the petitioner came to know that mutation dated 06.02.2009 has been entered on the basis of the order dated 05.09.2008, which has already been set aside and the entries also recorded in the jamabandies vide Annexures P-8 and P-9. Resultantly, the petitioner moved an application dated 16.10.2015 to the Assistant Collector 1st Grade to nullify the mutation No.1184 and to act as per order dated 07.02.2009. On 06.01.2016, the Assistant Collector 1st Grade passed an order that he has no power to hear the case qua mutation and guided the parties to prefer appeal before the Collector.

The counsel for the petitioner submits that the aforementioned act of the revenue authorities is not only contemptuous but require a legal action to be taken against them for their illegal activities and the petitioner has sent a complaint dated 21.07.2016 (Annexure P-12) to the various authorities but no action has been taken so far and he will be satisfied if a direction is issued to the respondents to consider the aforementioned complaint of the petitioner within a fixed time line.

Without going into the merits and demerits of the case of the petitioner, I deem it appropriate to issue direction to the 3rd respondent to consider the complaint dated 21.07.2016 (Annexure P-12) of the petitioner

within a period of two months from the date of receipt of certified copy of this order and shall pass a speaking order thereon.

The writ petition stands disposed of with the above direction.

(AMIT RAWAL)
JUDGE

March 09, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No