

Sr.No.207

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CWP-1756-2015(O&M)

Date of Decision: 07.05.2018

Sunder and another

.....Petitioners

versus

State of Haryana and others

.....Respondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present Mr.Rakesh Nehra, Advocate for the petitioners.
Ms. Kirti Singh, DAG, Haryana.
Mr. S.P.Chahar, Advocate for respondent no.6.
Mr. M.S. Kathuria, Advocate for respondents no.7 to 11.
Mr.Manjit Singh, Advocate
for Mr. Ravinder Malik, Advocate for
respondents no.7 to 11 and 13 to 19.

MAHESH GROVER, J(ORAL)

CM-6713-CWP-2018

CM is allowed, as prayed for.

Annexures R3 and R4 on behalf of respondents no.6 to 11 and
13 to 19 are taken on record subject to all just exceptions.

Main Case

The petitioners are residents of village Sanghi, Tehsil and District Rohtak who alleged that the private respondents filed two suits for partition in the year 1986 in respect of the land measuring 1589 kanals 17 marlas which were dismissed on 25.07.1992 with the appeals meeting a similar fate. When they approached this Court by way of writ petition no.3545 in 1997, the petition was disposed of with liberty to them to initiate proceedings under Section 13-A of the Village Common Lands Act which they did and pursued for as long as 10 years before getting the suit dismissed

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in default in the year 2011. They then approached the Court of the Asstt. Collector Ist Grade and without impleading the Gram Panchayat as a party procured an order dated 15.03.2011 by concealment and got an order from the Asstt. Collector in a clandestine manner. The effect of which was the partition of the land. It is from these proceedings that the present writ petition has been emerged where the petitioners pleaded that the order of the Asstt. Collector is un sustainable in view of the fact that previous litigation and the orders of this Court were never taken into account. It is urged before us that the land was *Shamlat Deh* vesting in Gram Panchayat but Gram Panhayat was never impleaded as a party.

The State has filed its reply and in para no.13 they have conceded to the error to be committed by the Asstt. Collector. The Gram Panchayat is also before us and has supported the plea of the petitioner. It has been specifically stated by them that they were never impleaded as party before the Asstt. Collector which has resulted in perverse order.

After hearing learned counsel for the parties, we are of the opinion that the order of the Asstt. Collector dated 15.03.2011 (Annexure P14) is un sustainable. Without the determination of proceedings under Section 13-A of the Punjab Village Common Lands (Regulation) Act, 1961, there is no occasion for the Asstt. Collector to enter upon partition proceedings as he did resulting in the impugned orders. Importantly this order has been given effect to and, therefore, wants us to form this opinion about order being un sustainable in view of clear concealment of facts and non joining of concerned parties, all subsequent actions taken on the strength of this order would necessarily have to be declared illegal.

In view of the totality of the circumstances of the case, present

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petition is accepted and the order dated 15.03.2011 (Annexure P14) and all
the subsequent proceedings arising therefrom are quashed.

(MAHESH GROVER)
JUDGE

07.05.2018
mamta

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No