

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

-:-

C.W.P No. 16226 of 2018

Date of decision: 02.08.2018

Bhagwati (Since Deceased) through LRs

... Petitioners

Vs.

Assistant Collector, Ist Grade, Manethi & Ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. P.S. Chauhan, Advocate, for the petitioners.

G.S.SANDHAWALIA, J. (Oral)

Present petition under Articles 226/227 of the Constitution of India has been preferred for quashing of order dated 23.01.2018 (Annexure P/1) and further order dated 08.08.2017 for setting aside the Naqsha Be dated 14.11.2017 and Naqsha Jeem dated 19.12.2017 (Annexures P/3 to P/6).

The grouse of the petitioners is mainly on account of the fact that proceedings for partition were initiated by the predecessors in interest of respondent No.2 in the year 2015 against their mother Smt. Bhagwati, who had already expired on 12.11.2008 (Annexure P/7).

It is stated that in such circumstances, she was proceeded against ex parte while being arrayed as respondent No.33 by the Assistant Collector vide order dated 30.04.2015 (Annexure P/3). It is accordingly, submitted that in such circumstances, the proceedings were without jurisdiction and the private respondent was well aware of her death but choose not to bring on record or serve the present petitioners who are the sons of Bhagwati.

If that is the position, it is always open to the petitioners to approach the competent authorities under the Act to bring to their notice the illegality which has prejudiced the petitioners as they have not been able to

put in appearance and contest. In such circumstances to approach this Court at the first instance itself could not be appropriate as alternative and efficacious remedies are available to the petitioners to approach the competent authorities under the Act.

Faced with this situation, counsel for the petitioners submits that he may be permitted to withdraw the present petition with liberty to approach the competent authorities. Needless to say it is always open to the petitioners thereafter to approach this Court in case the said authorities choose not to look into the grievance of the petitioners, on merits.

The petition is accordingly disposed off with the aforesaid liberty.

August 02, 2018
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(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No