

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

Civil Writ Petition No.21980 of 2018 (O&M)

Jagmohanjit Singh and another

... Petitioners

Versus

Financial Commissioner, Revenue, Punjab and others

... Respondents

(2) **Civil Writ Petition No.21990 of 2018 (O&M)**

Jagmohanjit Singh

... Petitioner

Versus

Financial Commissioner, Revenue, Punjab and others

... Respondents

Decided on : 20.09.2018

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

Present: Mr. G.S. Nagra, Advocate
for the petitioners.

Mr. APS Sandhu, Advocate
for respondents No.5 and 6.

G.S. Sandhawalia, J. (Oral)

CM-13768-CWP-2018 in CWP-21980-2018 & CM-13766-CWP-2018 in CWP-21990-2018

Applications for placing on record judgments and decrees dated 19.09.2012 & 22.08.2013 passed by the Civil Judge (Junior Division), Amritsar and the Additional District Judge, Amritsar, and copy of order dated 13.05.2014 passed in RSA No.4741 of 2013 as Annexure P-7 to P-9 (in CWP No.21980 of 2018) and as Annexures P-10 to P-12 (in CWP No.21990 of 2018), are allowed, subject to all just exceptions. The same are taken on record. Office to append the same at the appropriate place.

CMs stand disposed of.

Main petitions

The present order shall dispose of two writ petitions i.e. CWP Nos.21980 & 21990 of 2018, whereby the petitioners who were arrayed as respondents in the partition proceedings seek quashing of the order dated 09.08.2017 (Annexure P-6) passed by the Financial Commissioner, who dismissed the revision petitions on the ground that there was no question of title involved, as the petitioners had purchased the land from the co-owners beyond their due shares and even the civil suit had been dismissed on 19.09.2012 (Annexure P-7) and had been upheld by the lower Appellate Court on 22.08.2013 (Annexure P-8) and the Regular Second Appeal No.4741 of 2013 had also been dismissed on 13.05.2014 (Annexure P-9)

In CWP No.21990 of 2018, the issue was regarding the Mutation No.1788 which had been sanctioned in favour of the petitioners on the basis of an order of the Deputy Director Consolidation dated 04.10.1967 (Annexure P-3 T) for land measuring 11 kanal 7 marlas in favour of their father Makhan Singh which bears Khasra No.16//20(8-0) and 21 (3-7). The Assistant Collector 1st Grade, Amritsar had set aside the said order of mutation on 09.08.2010 (Annexure P-4 T) being a contested mutation and had given liberty to the petitioners to file the civil suit for declaration in Civil Court and mutations were set aside. The said orders have also been upheld by the Collector, Amritsar on 07.06.2011 (Annexure P-5 T) and on 08.10.2013 (Annexure P-6) which was further contested unsuccessfully before the Financial Commissioner on

09.08.2017.

The Civil Court had found that the sale deed as such dated 10.06.1987 by Kartar Singh was beyond his share as he was owner of 2 kanal 18 marlas of land and, therefore, the sale of 11 kanal 18 marlas was not justified in the facts and circumstances. As noticed the civil suit was filed for declaration by petitioner No.2-Balraj Kaur that she was owner in possession of land measuring 11 kanals 18 marlas bearing Kila No.32/1 (8-0), 10 (3-18) khata khatauni No.420/847 as per Jamabandi for the year 2005-2006 situated at village Bhoma, Tehsil and District Amritsar.

The Mode of Partition sanctioned on 17.12.2010 was accepted vide order dated 17.01.2011 by the Assistant Collector and the Collector Sub-Division-I, Amritsar dismissed the appeal on 26.04.2012 (Annexure P-2), by noticing that the factum of allotment of land by a right of consolidation had not been entered in the revenue record and as the same was disputed and no documents had been produced regarding taking of possession of this land. The Commissioner vide order dated 19.02.2014 (Annexure P-3) noticed that the civil suit had been dismissed on 19.09.2012 (Annexure P-7) and the order was binding upon the revenue courts and, therefore, dismissed the appeal as such.

The Financial Commissioner has, thereafter, proceeded also to dismiss the ROR's vide order dated 09.08.2017 on the ground that revisional jurisdiction is limited. Once the Civil Court had itself found that the share of the petitioners was only 2 kanal 18 marlas, the dispute as such is limited and, therefore, the question of title no longer arises. The

petitioners being unsuccessful on the civil side, it has been rightly held by the revenue authorities that the findings of the Civil Court are binding upon the revenue courts. The findings in **RSA No.4741 of 2013** by this Court read as under:-

“At this stage, it may be noticed that it could not be disputed before this Court that Kartar Singh-vendor of the appellant was owner to the extent of land measuring 2 kanals 13 marlas as per his share in the Shamlat Patti and thus, he could not have sold the land in favour of the appellant more than his share and thus, the sale deed dated 10.6.1987 whereby he sold 11 kanals 18 marlas of land in favour of the appellant could not have been executed legally and has no effect on the rights of the defendants. Thus, the appellant was not entitled to the declaration as claimed.”

The argument which has now been raised in CWP No.21990 of 2018 that liberty should be given to go to the Civil Court regarding the land which is subject matter of consolidation has been rightly objected to by Mr. APS Sandhu, Advocate for respondents No.5 and 6 who has put in appearance at this stage on the ground that the said khasra numbers bearing Nos.16//20(8-0) and 21 (3-7) were subject matter of the partition proceedings. Reference is, accordingly, made to vernacular of Annexure P-1 in CWP No.21980 of 2018 to point out that the liberty which has now been sought for to go before the Civil Court would resultant in leading to a contradictory order being passed. It is further pointed out that in translated version of Annexure P-1 of CWP No.21980 of 2018 the relevant khasra numbers have been conveniently omitted which are 16//12/1 (4-0), 32//1 (8-0) 10 (3-18), 16//20 (8-0), 21 Min (3-7).

Counsel for the petitioners is at lost to explain as to how this error has occurred, which according to him is inadvertent. This Court is not accepting the explanation given. The relevant entries pertaining to the land allotted in the consolidation proceedings are missing in the translated version bearing No.16//20 (8-0), 21 (3-7). An effort, thus, has been made to over reach this Court by concealing material facts and, accordingly, the petitioners have become liable to pay ₹25,000/- as costs.

The same shall be deposited within a period of two months with the Registrar General of this Court and which will be contributed towards the Kerala Relief Fund. In case the amount is not deposited, the Collector, Amritsar shall ensure the amount is recovered by arrears of land revenue from the petitioners. Report be submitted within a period of two months, thereafter, by the Collector, accordingly.

The writ petitions are, accordingly, dismissed in limine.

SEPTEMBER 20, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No