

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

Sailesh Ranjan
2018.10.22 10:34
I attest to the accuracy and
integrity of this document

117

CWP-25146-2018 (O&M)

Date of decision: 16.10.2018

Gurmail Singh & others

....Petitioners

Versus

State of Punjab & others

...Respondents

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

Present: Mr.M.S.Jandiala, Advocate, for the applicant/petitioners.

G.S. SANDHAWALIA, J. (Oral)

CM-15590-CWP-2018

Application, for placing on record judgment dated 15.04.2015 as Annexure A-1, is allowed, in view of the averments made in the application, duly supported by affidavit. Same is taken on record, subject to just exceptions. Office to tag the same at appropriate place.

CM stands disposed of.

CWP-25146-2018

Challenge in the present writ petition, filed under Articles 226/227 of the Constitution of India, is to the order passed by the Financial Commissioner dated 21.03.2018 (Annexure P-4), whereby the order of the revenue authority below regarding correction of Khasra Girdhawari, has been upheld for the land measuring 3 kanals 5 marlas, situated in Village Majrian Hadbast No.343 Tehsil Kharar, District SAS Nagar.

The reasoning given by the Financial Commissioner in the impugned order dated 21.03.2018 is primarily that Civil Suit had been decided against the petitioners for permanent injunction and in favour of Sardara Singh-respondent No.6. The appeal against the same is pending before the District Judge, SAS Nagar. Resultantly, it was held that in case the verdict is in favour of the petitioners, the same would be duly reflected in the revenue records.

Counsel has vehemently submitted that the petitioners were not arrayed as party, as such, in the proceedings for correction of revenue record and therefore, it was an *ex parte* proceeding and the orders passed by the revenue authorities are, thus, not sustainable.

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

117 **CWP-25146-2018 (O&M)** -2-

A perusal of the paperbook would go on to show that Bimla Devi and the other respondents of Village Bhagindi had been arrayed as party. The Assistant Collector had inspected the site on 18.06.2009 along with the Area Patwari and recorded the statement of the persons and thereafter, made the necessary correction in favour of the private respondent. The private-respondent has also filed a Civil Suit to protect his possession on 18.04.2011, which has now been decided in his favour on 15.04.2015 (Annexure A-1) wherein the defence of the present petitioners was that they were co-sharers. The Civil Court, accordingly, has held that the remedy would lie in filing a suit for partition of the property on that basis, but possession is to be protected as the plaintiffs were in possession as per the jamabandi for the years 2010-11 (Exts.P-2 & P-5).

It is not disputed that petitioners are in appeal before the Lower Appellate Court against the said judgment. The proceedings of correction in Khasra Girdhawari are summary in nature and it is settled principle that eventually the Revenue Courts shall be bound by the decision of the Civil Court. The argument that has been raised that protection has been granted to the private-respondent on the basis of the correction, is an issue which would be the subject matter before the Lower Appellate Court and it is not for this Court to opine in this set of proceedings. The Financial Commissioner has left the said issue open, which will be subject to the final decision of the Civil Court and in such circumstances, it is not for this Court to go into the thicket of the disputed facts as the interests of the petitioners have been reasonably protected by the Financial Commissioner.

Accordingly, finding no merit in the present writ petition, the same is hereby dismissed in limine.

16.10.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*