

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
108
CWP-3539-2018 (O&M)
Date of decision: 12.10.2018

Baldev Singh

....Petitioner

Versus

Commissioner, Jalandhr Division Janandhar & others

...Respondents

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

Present: Mr.S.L.Chander Shekhar, Advocate, for the applicant/petitioner.

G.S. SANDHAWALIA, J. (Oral)

CM-12027-CWP-2018

Application for placing on record the application for partition of land dated 23.10.2008 as Annexure P-7 and for exemption to file certified copy of the same, is allowed, in view of the averments made in the application, duly supported by affidavit.

CM stands disposed of.

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Present petition, filed under Articles 226/227 of the Constitution of India, by the petitioner, who was arrayed as respondent No.1 in the partition proceedings, is directed against the order passed by the Commissioner dated 02.03.2016 (Annexure P-3) whereby the partition proceedings were allowed to continue, by noticing the fact that partition was for 97 kanals 5 marlas of land and not only for Khasra No.30/20/2 and even if the 8 Kanals was left out, partition had to be done and resultantly, the matter was remanded to the Tehsildar-cum-Assistant Collector, 1st Grade, Patti, for further partition proceedings. Vide order dated 31.01.2017 (Annexure P-4), the review was also dismissed, being time-barred, which is also subject matter of challenge.

Counsel for the petitioner has vehemently argued that on an earlier occasion, the partition proceedings have been finalized upto the Financial

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Commissioner and placed reliance upon the order dated 29.01.2008 (Annexure P-5) to submit that the order of the Assistant Collector dated 16.02.2009 (Annexure P-1), which was upheld by the Collector vide order dated 28.08.2012 (Annexure P-2), were justified and have been wrongly interfered with, by the Commissioner.

The argument which has been raised by the counsel is without any substance. A perusal of the order of the Financial Commissioner dated 29.01.2008 (Annexure P-5) would reveal that he was dealing with land measuring 11 kanals 3 marlas situated at Kot Budha Tehsil Patti Distt. Amritsar, in which partition had already been finalized on 23.11.2004 and thereafter, the appeal had been dismissed on 15.04.2005 by the Collector and upheld by the Commissioner on 31.01.2006. The partition proceedings in that case was initiated by one Sukhdev Singh.

In the present case, the partition proceedings have been initiated by Lakhbir Singh, Makhan Singh and Sarwan Singh and is for 97 kanals 5 marlas also for land in Village Kot Budha, Tehsil Patti and therefore, it cannot be said that same land is again under consideration for the second time.

This factual aspect, as such, could not be denied by counsel for the petitioner. The argument, therefore, is based on the facts which are not substantiated, in any manner. Accordingly, in view of the above discussion, finding no merit in the present writ petition, the same is hereby dismissed in limine.

12.10.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No