

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

LPA No. 1981 of 2014 (O&M)
In CWP No. 16956 of 2013

Date of decision: 21.2.2018

Jaswant Singh

.. Appellant

VS

Financial Commissioner, Punjab, and others

.. Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice B. S. Walia**

Present Mr. Manish Kumar Singla, Advocate, for the appellant.
Mr. Amit Mehta, Senior Deputy Advocate General, Punjab.
Ms. Sonia G. Singh, Advocate, for respondent nos. 5 to 8.
Mr. Parveen Garg, Advocate, for respondent no. 11.

Rajesh Bindal, J.

Order passed by the learned Single Judge dismissing the writ petition, upholding the order passed by the authorities regarding partition of the land, has been impugned by filing the present intra-court appeal.

In the case in hand, the application for partition of the land was filed by Major Singh, Birbal Singh, Satnam Singh sons of Dalip Singh, Hakam Singh, Naib Singh sons of Jagmail Singh against the other co-sharers. The parties to the dispute have common ancestors. There are three units, namely, (i) Jaswant Singh, Pargat Singh and Balwinder Singh, (ii) Major Singh, Birbal Singh and Satnam Singh, (iii) Hakam Singh and Naib Singh. The writ petition was filed by Jaswant Singh and Pargat Singh, which was dismissed. The present appeal has been filed only by Jaswant Singh.

The grievance raised by learned counsel for the appellant is that he was in possession of khasra no. 31//16, which has been given to Major Singh. It is further submitted that khasra no. 26//11 has been divided into two parts and one part has been given to the appellant and similarly khasra no. 20 has been divided into two parts and one part was given to the appellant. A small part of the land bearing khasra no. 29//4/1/1 (1 kanal) has been given to the appellant, which is a very small portion of land located at different place. Entire land has been bifurcated. Further grievance is that the appellant has been given khasra no. 31//2/1, 31//1 and 30//5/2. Khasra no. 31//16 was already in his possession, whereas khasra no. 31//1 and 30//5//2 has been given after partition. In the process, entire land holding has been bifurcated. Different small-2 parts have been allotted at different – different places.

On the other hand, learned counsel for respondent nos. 5 to 8 submitted that khasra no. 31//16 has been given to them as it has connection with a road, because they have constructed their houses in the adjoining khasra no. 31//15. Khasra nos. 26//11/2, 20/2, 26//11/1 and 21//2 have been given to them so that this portion of land has excess to a passage. Khasra no. 24/1/1 (1 kanal) has come to the share of Harminder Kaur widow of Balwinder Singh. She only has one kanal of land, which has already been sold. This portion of land was given to her as it is connected with the road. No objection was raised regarding khasra no. 31//2, 30//5 and 31//1.

It was further submitted that the land holding has been divided amongst the co-sharers keeping in view the quality thereof, as the portions of land are located at three difference places and its quality differs.

After hearing learned counsel for the parties, we do not find any reason to interfere in the impugned order passed by the learned Single Judge. There is nothing wrong in case khasra no. 31//16 has been given to respondent nos. 5 to 8 as it has connection with a passage upto their house and as claimed by the aforesaid respondents that they have constructed house in khasra no. 31//15, which is adjoining thereto. As regards portion of land bearing khasra nos. 26/11/1 and 20/2, is concerned, this portion of land is located at a different place, where the co-sharers have been given land according to their share, as a result of which, it will have connection with the passage. Similarly part of land bearing khasra no. 24/1/1 will not have any relevance in the case for the reason that it came to the share of Harminder Kaur widow of Balwinder Singh, who has already sold the same. As far as allotment of khasra no. 32//23 to the appellant in exchange of khasra no. 31/16 is concerned, we do not find any illegality as it is as such connected with a passage. Similar is the position with regard to khasra no. 31//2/1/ and 31//1.

Considering the aforesaid facts, we do not find any error in the order passed by the learned Single Judge. Accordingly, the appeal is dismissed.

(Rajesh Bindal)
Judge

21.2.2018
vs

(B. S. Walia)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No