

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.98 of 2018 (O&M)
in CWP No. 28568 of 2017
Date of decision: 18.01.2018

Balwinder Singh and another

.... Appellants

Versus

Financial Commissioner, Revenue, Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Arun Bansal, Advocate for the appellants.

B.S. Walia, J.

[1] Challenge in this intra-court appeal is to order dated 15.12.2017 passed by the Writ Court dismissing the writ petition as also to order dated 08.01.2018 passed in the review application with further prayer for setting aside orders Annexure P-7 dated 08.11.2017 passed by the Financial Commissioner Revenue, Punjab, Chandigarh under Section 16 of the Punjab Land Revenue Act, order Annexure P-5, dated 02.05.2017 passed by the Commissioner, Roopnagar Division, Roopnagar, orders Annexure P-3 dated 14.12.2015 and Annexure P-2 dated 08.01.2015 passed by the Assistant Collector, First Grade, Banur in the matter of partition of land.

[2] Challenge by the appellants herein to orders Annexure P-2 dated 08.01.2015 and Annexure P-3 dated 14.12.2015 passed by the Assistant Collector First Grade, Banur as well as order Annexure P-5 dated

02.05.2017 passed by the Commissioner, Roopnagar Division, Roopnagar was dismissed vide order Annexure P-7 dated 08.11.2017 by the Financial Commissioner, Revenue, Punjab Chandigarh by taking into account that mode of partition was sanctioned by the Assistant Collector Grade-I, Banur vide order dated 08.01.2015 on an application by Abdul Satar (respondent No.4 herein) for partition of land measuring 20 bighas and 14 biswas situated in village Banur, Tehsil Derabassi, District SAS Nagar and *Naksha Arra* was sanctioned on 14.12.2015. Review petition filed against the aforementioned two orders by the appellants was dismissed by the Commissioner vide order Annexure P-5 on 02.05.2017. The learned Financial Commissioner while taking note of aforementioned position also considered the plea of the appellants that *Naksha Arra* had been sanctioned on 14.12.2015 without considering the objections of the appellants and of the same having not been prepared in terms of mode of partition. As per the sanctioned mode of partition, possession of the parties had to be kept intact and in the instant case, in *Naksha Arra*, possession of the parties had been disturbed and the land which was in possession of the appellants since many years had been given to the respondents.

[3] Before the Financial Commissioner, plea of the appellants was that as per coloured map, Khasra No.5984/1 was shown in the share of the appellants while Khasra No.5984/2 was shown in the possession of Abdul Satar (respondent No.4) but as per *Naksha Arra*, Khasra No.5984/1 had been wrongly shown in the share of Abdul Satar (respondent No.4) and Khasra No.5984/2 with the appellants. However, statement was made by counsel for the respondents/caveators that the same was due to a clerical mistake and that they had no objection if khasra numbers were allotted to the parties as

per the coloured map. While dismissing the revision petition, the Financial

Commissioner held that as per settled law of partition as well as sanctioned mode of partition, every co-sharer was entitled to superior as well as inferior quality of land in proportion to the parties respective share and that during partition, co-sharers who were in possession of superior quality of land (including land abutting a road) more than their entitlement were liable to be disturbed. The Financial Commissioner held that on perusal the coloured map appeared to have been rightly prepared by allotting land suitably to the appellants and respondent No.4 Abdul Satar, therefore, there was no merit in the revision petition. Accordingly, while dismissing the revision petition, the Assistant Collector Grade I, Banur was directed to proceed further by allotting Khasra numbers to the parties as shown in the coloured map (*Aksh Shajra*).

[4] The appellants/petitioners challenged order Annexure P-2 dated 08.01.2015 by which the mode of partition was sanctioned and Naksha 'A' was asked to be filed as also order Annexure P-3 dated 14.12.2015 in which it was recorded that no objection to the proposed Naksha 'A' was filed despite affording an opportunity whereupon proposed Naksha 'A' was sanctioned and Halqa Girdawar was ordered to prepare Naksha 'B', order Annexure P-5 dated 02.05.2017 by which the revision filed by the appellants before the Commissioner was dismissed as also the order Annexure P-7 dated 08.11.2017 passed by the learned Financial Commissioner.

[5] The learned Writ Court dismissed the writ petition. In doing so, the writ Court took into account that the only argument on behalf of the appellants/petitioners was that the land given to the appellants/petitioners was in 'L' shape whereas it ought to have been in a straight line but it was not disputed that partition had been done in accordance with the sanctioned mode of partition and on the basis of Naksha 'A' prepared in terms of the

sanctioned mode of partition. Review application filed by the appellants/petitioners was also dismissed by the learned Writ Court.

[6] We have considered the submissions made by learned counsel for the appellants/petitioners. *Naksha Arra* was prepared according to the sanctioned mode of partition as per which every co-sharer is entitled to superior as well as inferior quality of land in proportion to his share/entitlement. Besides, front on road was also given to all co-sharers. As per the coloured partition map i.e. *Aksh Shajra*, both the appellants as well as respondent No.4-Abdul Satar have been given land abutting the road whereas the appellants have been given more land than as per their entitlement, besides, they have been given passage from three sides.

[7] Since partition was done in accordance with the sanctioned mode of partition and on the basis of Naksha 'A' prepared in terms of the sanctioned mode of partition and the authorities below having gone into the aforementioned aspects of the matter, we do not find any reason whatsoever to interfere with the well-reasoned findings recorded by the learned Writ Court upholding the orders of the Financial Commissioner which in turn uphold the order of the Commissioner.

[8] Accordingly, the present appeal is dismissed.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

18.01.2018
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| 1. Whether speaking/reasoned | : | Yes/No. |
| 2. Whether reportable | : | Yes/No. |