

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

**CWP No. 16020-2019
Date of decision : 17.10.2019**

Sant Lal and others **..... Petitioners**

versus

State of Haryana and others **..... Respondents**

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

Present: Mr.Gaurav Jaglan, Advocate
for Mr. Vikram Singh Dhakla, Advocate
for the petitioners.

Ms.Vibha Tiwari, AAG, Haryana.

Mr.Sumit Gupta, Advocate
for caveator-respondents No.5 and 6.

Mr. B.S.Bedi, Advocate for respondent No.7.

G. S. SANDHAWALIA, J. (ORAL)

The petitioners have filed the writ petition under Article 226/227 of the Constitution of India challenging the order dated 02.05.2019(Annexure P-8) of the Financial Commissioner whereby the revision was dismissed upholding the orders below of partition passed by the competent authorities. Before the Financial Commissioner also the ground taken was that the petitioners had not been served of the notice of partition proceedings as the counsel were never engaged by them to appear on their behalf,. The Financial Commissioner observed that the record had been seen

and the petitioners had appeared through Manphool Singh Chhikara and Surender Singh Lohchab, Advocates and filed their reply. Therefore, the said contention was rejected. It was also noticed that the Civil Court of Additional Civil Judge, Bahadurgarh in its judgment held that partition has been legally and rightly effected which was binding on the Revenue Court and there was no irregularity in the partition proceedings. Thus, the petitioners having been duly represented, it was held that the partition proceedings have been concluded by the Assistant Collector as per the sanctioned mode of partition and no irregularity has been committed by him.

A perusal of the paper book shows that the mode of partition was prepared on 15.11.2013(Annexure P-1) and eventually the *Sanad Taqseem* had been prepared and in the absence of appeal having been filed, the Assistant Collector had passed the order of partition on 29.05.2014(Annexure P-4). It is matter of record that the mutation of partition was sanctioned on 19.07.2014 and the same was accepted on 31.07.2014. Resultantly revision petition was filed challenging the said proceedings.

On 31.05.2019 the record was ordered to be summoned in view of the following argument raised by counsel for the petitioners. The said order reads as follows:-

“ It is the contention of learned counsel for the petitioners that the petitioners have been proceeded against in a *mala fide* manner on the part of the counsel as no counsel was engaged nor were they served before the Assistant Collector Ist Grade, Bahadurgarh.

This contention although has been negated by the Financial Commissioner, Haryana, however the records of Case

No.24/NT/partition, date of institution 26.02.2013, decided on 29.05.2014 (Annexure P-1) by the Assistant Collector Ist Grade, Bahadurgarh, shall be produced by Mr. Manish Dadwal, Assistant Advocate General, Haryana, to verify firstly whether the petitioners have been served and secondly had they engaged the counsel or not by tallying their signatures with that of *vakalatnama* on record.

List on **10.07.2019**.

Status quo with regard to alienation of the property shall be maintained till the next date of hearing.”

State counsel has produced the record. A perusal of the record would go to show that what has been recorded by the Financial Commissioner is justified in view of the fact that not only Vakalatnama even the written statement as such is there and the signatures of Sant Lal etc. are also there along with thumb impressions. A perusal of zimni order dated 19.03.2014 would also go to show that counsel Mr.M.S.Chhikara had made a statement that he has no objection to the site plan prepared.

In such circumstances there is no ground as such to interfere in the order passed by the Financial Commissioner. Accordingly the writ petition is dismissed. Stay granted on 31.05.2019 shall accordingly stand vacated.

(G.S.Sandhawalia)
Judge

17.10.2019
sunita

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No