

CWP-26238-2014

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-26238-2014

Date of Decision: 24th May, 2019

Surinder Kumar & others

...Petitioners

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Anil Chawla, Advocate
for the petitioners.

Mr. Charanpreet Singh, Asstt. A.G., Punjab.

Mr. Kuldeep Sanwal, Advocate
for LR's of respondent No.6 and respondents No.7 & 8.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court for quashing of the order dated 08.02.2005 (Annexure P-5) passed by the Assistant Collector 1st Grade, Gurdaspur – respondent No.5 proposing the mode of partition, the order dated 27.02.2007 (Annexure P-7) passed by the Commissioner, Jalandhar Division, Jalandhar – respondent No.3 upholding the mode of partition and the order dated 05.09.2013 (Annexure P-8) passed by the Financial Commissioner (Appeals), Punjab – respondent No.2 dismissing the revision petition and upholding the order dated 08.02.2005 (Annexure P-5) passed by the Assistant Collector 1st Grade, Gurdaspur and dated 27.02.2007 (Annexure P-7) passed by the Commissioner, Jalandhar Division, Jalandhar.

2. Briefly, the facts of the case are that an application for partition was filed by Jeewan Singh – respondent No.6 on 06.08.2000. Prior thereto, petitioners had purchased a piece of land measuring 27 kanals and 2 marlas from co-sharer – Partap Singh, brother of respondent No.6, vide sale deed dated 28.04.1967. Since the revenue records did not reflect the names of the petitioners as owners of the land, they were not impleaded as parties to the partition application, however, objections were filed by them to Naksha 'A' on the ground that the petitioners were the owners in possession of the land measuring 27 kanals and 2 marlas as per the sale deed. The said objections were rejected by the Assistance Collector 1st Grade, Gurdaspur – respondent No.5 by a non-speaking order dated 08.02.2005 (Annexure P-5), appeal against which preferred by the petitioners was accepted by the Collector, Gurdaspur- respondent No.4 vide order dated 08.11.2005 (Annexure P-6) leading to filing of an appeal by respondent No.6 – Jeewan Singh before the Commissioner, Jalandhar Division, Jalandhar - respondent No.3, who allowed the said appeal vide order dated 27.02.2007 (Annexure P-7), against which, revision petition was preferred by the petitioners herein before the Financial Commissioner (Appeals), Punjab, being ROR No.348 of 2007, which has been dismissed vide order dated 05.09.2013 (Annexure P-8) leading to the filing of the present writ petition.

3. It is the contention of the learned counsel for the petitioners that the petitioners are aggrieved by the orders passed by the authorities which have been impugned on the ground that the matter should have been remanded to the Collector, Gurdaspur, for fresh decision instead of

Assistant Collector 1st Grade, Gurdaspur, since the challenge was limited to the extent of the order passed by the Collector, Gurdaspur in appeal before the Commissioner, Jalandhar. He, thus, contends that the matters needs to be so decided by the Collector, Gurdaspur.

4. On the other hand, learned counsel for respondent No.6 has contested the contention of the counsel for the petitioners by asserting that the orders which have been passed by the authorities and impugned are well reasoned and speaking orders and based upon the facts which do not call for any interference by this Court.

5. I have considered the submissions made by the learned counsel for the parties and with their able assistance have gone through the records of the case.

6. Keeping in view the controversy which is involved in the present case and also in the light of the fact that the objections were raised by the petitioners before the Assistant Collector 1st Grade, Gurdaspur, to the proposed Naksha 'A', rejection of which vide order dated 08.02.2005, which is a non-speaking order, has been set aside by the Collector, Gurdaspur, in the appeal preferred by the petitioners, the matter requires to be remanded back to the Assistant Collector 1st Grade, Gurdaspur for fresh decision and therefore, the orders passed by the Commissioner, Jalandhar Division, Jalandhar, dated 27.02.2007 (Annexure P-7) is held to be correct to that extent and the orders to the contrary are set aside.

7. The matter is, thus, remanded back to the Assistant Collector 1st Grade, Gurdaspur, for fresh decision on the objections which have been

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filed by the petitioners by passing a speaking order within a period of three months from the date of appearance of the parties.

8. Parties are directed to appear before the Assistant Collector 1st Grade, Gurdaspur, on 01.07.2019.

9. The writ petition is disposed of with above directions.

24th May, 2019
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No