

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

1. LPA No.11 of 2019(O&M)
Date of decision: 11.03.2019

Omkar and another

... Appellants

Versus

State of Haryana and others

... Respondents

2. LPA No.5 of 2019(O&M)

Omkar and another

... Appellants

Versus

M/s Shree Krishna Estates and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Ajay Jain, Advocate for the appellants.

ARUN PALLI, J (Oral)

These are intra-court appeals, under Clause X of the Letters Patent, against an order and judgment dated November 26, 2018, rendered by the learned Single Judge, whereby writ petition, i.e. CWP No.14066 of 2016 (**M/s Shree Krishna Estates through its Proprietor v. State of Haryana & others**), filed by respondent No.4 was allowed and vide same order Civil Writ Petition No.1312 of 2016 (**Omkar & another v. State of Haryana & others**), preferred by the appellants herein, was dismissed. That is how, the appellants have preferred these two appeals.

The facts that are required to be noticed are limited.

The appellants had preferred two separate revisions i.e. ROR Nos.259 & 260 of 2013-14, before the Financial Commissioner arising out of the partition proceedings initiated by M/s Shree Krishna Estates (respondent No.4), wherein they assailed the order dated 03.11.2009, whereby the land in question was partitioned, and another order of an even date pursuant whereto *Sanad Taksim* was ordered to be prepared as also the order passed by the Collector dated 09.09.2013. As may be expedient to clarify: ROR No.259 of 2013-14 pertained to the land comprised in khasra No.41/11/2 (4-0) and in ROR No.260 of 2013-14, the land in dispute was comprised in khasra No.41/20/2/2(6-0). And, vide a common order dated 21.10.2015 (Annexure P8), the Financial Commissioner dismissed ROR No.259 of 2013-14, as the nature of the land involved therein was *Chahi* and nothing was brought on record to show that any School was constructed thereupon. However, ROR No.260 of 2013-14 was accepted and the order of partition was set aside, for, in the jamabandi the disputed land was reflected as *Gair Mumkin*. Aggrieved by the said order, both the parties i.e. appellants as also M/s Shree Krishna Estates (respondent No.4), approached this Court vide two separate writ petitions, and as indicated above the writ petition preferred by the appellants was dismissed and vide a common order the writ petition filed by the respondent No.4 was allowed.

Upon a consideration of the matter, and material on record, the learned Single Judge reached a conclusion that concededly pursuant to the order dated 03.11.2009, the final document of partition i.e. *Sanad Taksim*, had since been prepared and had even been given effect to by the competent authorities. Further, the land in question stood partitioned and none of the parties to the lis objected thereto at that stage. Thus, it was held that in the given situation, the Financial Commissioner ought not to have interfered in

the matter. Thus, the order dated 21.10.2015 whereby the revision petition filed by the appellants (ROR No.259 of 2013-14) was dismissed, was affirmed, whereas a part of the said order; to the extent ROR No.260 of 2013-14 was allowed and the order of partition was set aside, was held to be erroneous in the wake of the findings recorded by the authorities below and was accordingly set aside. Upon being pointedly asked, learned counsel for the appellants failed to refer to anything on record to show if the conclusions recorded by the learned Single Judge were either contrary to the record or suffered from any material illegality.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeals being devoid of merit are accordingly dismissed.

(Krishna Murari)
Chief Justice

(Arun Palli)
Judge

11.03.2019
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO