

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.142

CWP-5871-2020 (O&M)
Date of decision : 2.3.2020

Brahmi

..... Petitioner

VERSUS

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Deepak Verma, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner is aggrieved because her revision petition has been dismissed by the learned Financial Commissioner vide order dated 27.5.2019.

The bare relevant facts are that the learned Assistant Collector, First Grade finalised partition proceedings vide order dated 14.3.2005. This order was challenged by the petitioner by way of an appeal, but the same was rejected vide order dated 14.6.2005. Further revision carried before the learned Commissioner also failed and was dismissed vide order 1.6.2006. However, the learned Financial Commissioner allowed the second revision petition vide order dated 4.1.2013 and remanded the case to the Assistant Collector, First Grade for deciding the partition proceedings afresh by taking into consideration alleged compromise dated 8.8.2008. Thereafter, vide order dated 8.1.2014, the learned Assistant Collector, First Grade has decided the partition proceedings and sanad dated 27.3.2014 has been issued. The same was challenged before the learned Financial Commissioner by the petitioner without success.

Learned counsel for the petitioner has submitted that the petitioner was not a party to the compromise dated 8.8.2008 and this aspect has escaped the attention of the learned Financial Commissioner. Moreover, the delay should have been condoned because the revision petition was filed after receipt of the necessary documents and the delay resulted only on account of inaction of the official respondents.

Neither of the arguments has any merit. If, the petitioner was not a party to the compromise dated 8.8.2008, she should have challenged the order dated 4.1.2013 passed by the learned Financial Commissioner directing fresh decision of the case on the basis of the said compromise. Admittedly, the petitioner was a party when the said order was passed and at this stage, she cannot be heard to urge that she was not a party to the compromise.

Regarding delay, learned Financial Commissioner has found that there is a delay of 133 days in filing of the revision petition, which has not been explained cogently. There is no material on record to suggest that said finding is erroneous. Oral submissions made by learned counsel for the petitioner that the delay was caused on account of delay in supply of certified copies cannot be accepted.

Faced with this situation, learned counsel for the petitioner submits that even the compromise dated 8.8.2008 has not been properly interpreted. The order of partition is contrary to the said compromise and thus, the sanad deserves to be set aside.

This argument of learned counsel for the petitioner is destructive of his original plea that the petitioner was not a party to the compromise. Mutually, destructive pleas cannot be permitted to be taken and thus, I reject this contention as well.

The writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

2.3.2020

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No