

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.119+210

CWP-4556-2016 (O&M)

Date of decision : 19.2.2020

Phuli Devi and others

..... Petitioners

VERSUS

Financial Commissioner, Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. J.R. Mittal, Sr. Advocate with
Mr. Surinder Garg, Advocate and
Mr. Lalit Sharma, Advocate, for the petitioners.

Mr. Manish Dadwal, AAG, Haryana.

Mr. V.S. Rana, Advocate
for respondents No.5, 6, 8 to 10 and 12.

SUDHIR MITTAL, J. (Oral)

CM-2535-CWP-2020

This application has been filed for impleading the LR's of deceased-petitioner No.2.

The applicants are the wife and daughters of deceased-petitioner No.2 and according to the application, there are no other surviving legal heirs.

Thus, the application is allowed subject to all just exceptions and the LR's of deceased-petitioner No.2 are brought on record.

Amended memo of parties is taken on record.

CWP-4556-2016

Learned senior counsel for the petitioners submits that the Financial Commissioner could not have exercised revisional jurisdiction and drawing a parallel with Article 226 of the Constitution of India was impermissible. Moreover, respondent No.13-Surinder Singh son of Raj

Kumar had become major in June, 2013. At that time, partition proceedings were pending and thus, he had the remedy of seeking setting aside the ex parte order. However, he chose to join partition proceedings and thus, no prejudice was caused to him by non appointment of Court guardian. Learned Financial Commissioner was thus, in error in setting aside the partition proceedings, on the said ground.

Learned counsel for respondents No.5, 6, 8 to 10 and 12 as well as learned counsel for respondent No.13 submit that notice of motion was issued only for the limited purpose of exploring a settlement between the parties. The parties were referred to mediation and according to the report of the Mediation Centre, the said proceedings have failed. Thus, arguments on the merits of the dispute cannot be permitted to be raised.

A perusal of order dated 17.3.2016, shows that notice of motion was confined to exploring the settlement between the parties. Settlement has failed to fructify and thus, no arguments on merit of the case can be appreciated.

For the aforementioned reasons, the writ petition stands dismissed.

(SUDHIR MITTAL)
JUDGE

19.2.2020
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No