

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA-281-2020 (O&M)

Date of decision:03.11.2021

Surjit Singh

....Appellant

V/s.

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr. Raj Kumar Kakkar, Advocate for the appellant.

Ms. Anu Pal, DAG, Punjab.

Mr. M.L.Saggar, Senior Advocate with
Mr. Sunny Saggar, Advocate for respondent No.7.

Ritu Bahri, J. (Oral).

The appellant has filed present Letters Patent Appeal against the interim order dated 18.02.2020 in CWP No. 26940-2014 which is being reproduced as under:-

“Affidavit of Sh. Beant Singh Sidhu, Tehsildar Zira, District Ferozepur, has been filed in Court. The same is taken on record. According to this affidavit, the parties were served and after completion of service were heard on 2.12.2019. Their respective kurras have been prepared according to their satisfaction.

Learned State counsel prays for four weeks' time to put the parties in possession in accordance with the site plan Annexure R-4.

In case, proceedings for transfer of possession are not completed within four week, Deputy Commissioner, Ferozepur, shall remain present in Court on the next date of hearing.

Adjourned to 24.03.2020.

A photocopy of this order be placed on the files of other

connected cases.”

Learned counsel for the appellant has argued that when the site plan (Annexure R-4) was prepared, appellant was not given opportunity to file his objection and without his objection, site plan (Annexure R-4) has been prepared and partition of land has been carried out.

A perusal of reply by way of affidavit of Sh. Beant Singh Sidhu, Tehsildar Zira, District Ferozepur, respondent No. 5 shows that this Court gave direction in **CWP-26940-2014** titled as **Angrej Singh Vs. State of Punjab and others** to the Tehsildar-cum-Assistant Collector 1st Grade, Zira, District Ferozepur to issue notices to all the parties concerned and assign a particular chunk of land in one consolidated share to all the private respondents keeping in view that the petitioner Angrej Singh was owner of 3/4th share of the total land whereas the remaining respondents were owners of 1/4th area of the land. Proceedings were started when Angrej Singh and Surjit Singh appeared on 20.11.2019 and thereafter steps were taken by Tehsildar to serve other respondents by munadi and fixation. Ultimately, they were proceeded exparte on 16.12.2019. Angrej Singh got his statement recorded on 02.12.2019 (Annexure R-3) and site plan (Annexure R-4) was prepared.

As per the statement (Annexure R-3), Angrej Singh has stated that kurrah of other parties i.e. Surjit Singh etc. be made as per their choice of 1/4th share and they can be given their 1/4th share and the kurrah of remaining 3/4th share which comes in his favour be prepared separately. Pursuant to the statement made by Angrej Singh, the status report was prepared on 16.01.2020 according to the site plan prepared by the filed staff.

The first party Angrej Singh has got recorded his statement that the site plan

which has been prepared is true and correct and the second party Surjit Singh did not file any objection regarding the site plan.

Respondent No.6 Angrej Singh had given choice to Surjit Singh to select kurrah as per his choice which was $\frac{1}{4}$ th share of the property measuring 256 Kanals and 10 Marlas of land situated in village Sherpur Takhtu Wala Tehsil Zira.

Learned counsel for the appellant is not disputing the statement made by Angrej Singh (Annexure R-3). The only objection of the appellant is that he was not given opportunity to file objection before the preparation of site plan (Annexure R-4). This argument is liable to be rejected as Angrej Singh had given choice to Surjit Singh to select his share and Surjit Singh did not file any objection regarding the site plan. Thereafter status report of khasra numbers was prepared on 16.01.2020.

At this stage, learned counsel for respondent No. 7, has made reference to Division Bench judgment passed in ***Balbir Singh and another vs. State of Punjab and others 2006(4) R.C.R.(Civil) 312*** whereby it has been held that if partition of land has been conducted on the basis of statements recorded in the order passed by Financial Commissioner, then interference cannot be called for in writ petition. Para 5 of this judgment is reproduced as under:-

“We are of the opinion that it is a settled principle of law that the Courts are bound to accept the statements recorded in the judgments and orders as to what transpired in Courts. If any party thinks that some statement is wrongly recorded, it is incumbent upon the party while the matter is fresh in the mind of the Judges to call the attention of those very Judges who have made the orders to the fact that a statement attributed to them is not correctly recorded. For this proposition of law, we

are fortified by a judgment of the Hon'ble Supreme Court in *State of Maharashtra v. Ramdas Shrinivas Nayak and another, AIR 1982 Supreme Court 1249*. The following observations are relevant:-

“The Court is bound to accept the statement of the Judges recorded in their judgment, as to what transpired in court. It cannot allow the statement of the Judges to be contradicted by statement at the Bar or by affidavit and other evidence. If the judges say in their judgment that something was done, said or admitted before them, that has to be the last word on the subject. The principle is well settled that statements of fact as to what transpired at the hearing, recorded in the judgment of the court, are conclusive of the facts so stated and no one can contradict such statements by affidavit or other evidence. If a party thinks that the happenings in court have been wrongly recorded in a judgment, it is incumbent upon the party, while the matter is still afresh in the minds of the Judges, to call the attention of the very Judges, who have made the record to the fact that the statement made with regard to his conduct was a statement that had been made in error. That is the only way to have the record corrected. If no such step is taken, the matter must necessarily end there.....”

In the present case, pursuant to the statement made by Angrej Singh (Annexure R-3) dated 02.12.2019, final status report of khasra numbers was prepared on 16.01.2020 and thereafter site plan (Annexure R-4) dated 10.02.2020 was prepared. The present appellant has been associated in the process of partition proceedings since November, 2019.

However, keeping in view that the main Writ Petition i.e. CWP-26940-2014 is pending, this Letters Patent Appeal is disposed of with direction to Registry to list CWP-26940-2014 on the date already fixed i.e. 02.03.2022.

Pending application stands disposed of.

(RITU BAHRI)
JUDGE

03.11.2021
Divyanshi

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No