

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

CR-1187-2018(O&M)

Date of decision:-9.11.2022

Chuhar Singh and another

...Petitioners

Versus

Jaswinder Singh and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.G.S. Punia, Sr.Advocate with
Mr.Amitaz Singh, Advocate
for the petitioners.

H.S. MADAAN, J.

1. This revision petition is directed against the order dated 5.1.2018 passed by Civil Judge (Jr.Divn.), Malerkotla vide which he had dismissed application under Order 7 Rule 11 CPC filed by the defendants seeking rejection of the plaint on the ground of jurisdiction.

2. Briefly stated, facts of the case are that plaintiff Jaswinder Singh had brought a suit against defendants Chuhar Singh and others seeking a declaration that instruments of partition/sanad taksim passed and other proceedings conducted by Assistant Collector Ist Grade, Malerkotla in partition application file dated 32/AC-II of 2.4.2014 decided on 1.8.2014 in case 'Chuhar Singh and another Versus Gurdeep Singh and others' regarding land measuring 87 bighas 2 biswas situated at village Gowara, Tehsil Malerkotla, District Sangrur, are illegal, null and void and

are liable to be set aside besides craving for grant of permanent injunction restraining the defendants from interfering/dispossessing the plaintiff from his house and ruri out of that land as well as restraining defendants from alienating any specific portion khasra number out of that land.

3. On getting notice, the defendant put in appearance through counsel and contested the suit as well as application for grant of ad interim injunction. The application for grant of ad interim injunction was dismissed vide order dated 25.10.2016.

4. The defendants had filed an application under Order 7 Rule 11 CPC contending that the Civil Court does not have jurisdiction to entertain and try the suit challenging the partition proceedings carried out by revenue authorities.

5. The application was contested by the plaintiff. Vide the impugned order, the application was dismissed observing that the Court was of the considered view that at that stage, it could not be ascertained as to whether the Court had jurisdiction to try the suit and that it was a matter of evidence to be seen at the time of trial.

6. Feeling aggrieved by that order, the defendants have knocked at the door of this Court by way of filing the present civil revision petition.

7. Notice of the revision petition was given to the plaintiffs/respondents but respondent No.1, who is contesting respondent failed to put in appearance despite service.

8. I have heard learned counsel for the revisionist besides going through the record.

9. Section 158 of the Punjab Land Revenue Act, 1887 bars jurisdiction of Civil Court in the matters, which are within the domain of the revenue officers. It provides that Civil Court shall not have jurisdiction in any matter, which the revenue officer is empowered by Punjab Land Revenue Act, 1887 to dispose of or take cognizance of or where any revenue officer exercises any power vested in him under the Punjab Land Revenue Act, 1887. Chapter IX of this Act deals with subject of partition clarifying that the partition of land is to be done by revenue authorities under the Act. Section 118 of the Act provides that When there is a question as to the property to be divided, or the mode of making a partition the Revenue-officer shall, after, such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision. Sub-Section provides that an appeal may be preferred against an order under sub-section (1).

10. Therefore, the Civil Court lacks jurisdiction to look into legality and validity of the partition proceedings carried out by the revenue authorities. The trial Court lost sight of this fact and by non-application of mind in a mechanical way passed a vague order that at this stage it cannot be ascertained as to whether the said Court had jurisdiction to try the suit. Things are crystal clear and how the trial Court is seeing some ambiguity in the matter is difficult to understand. A perusal of the order goes to show that proper assistance had not been provided to the trial Court by the counsel representing the defendants by specifically referring to Section 158 of the Punjab Land Revenue Act, 1887 barring jurisdiction of the Civil Court to entertain and try such disputes.

11. However, this order is not sustainable and is liable to be set aside.

12. Thus, the order under revision is set aside with the observations that the trial Court shall decide the application afresh considering the provisions of Section 158 of Punjab Land Revenue Act, 1887 and other relevant provisions on the subject. Needful be done expeditiously preferably within a period of one month from the date of receipt of copy of this order.

13. With these observations, the revision petition is allowed accordingly.

9.11.2022

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No