

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-4661-2021 (O&M)

Date of Decision: 10.10.2022

Shri Chand

....Petitioner

VS

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Ajay Jain, Advocate
for the petitioner

Mr. Rajneesh Chadwal, AAG Haryana

Mr. Pankaj Maini, Advocate
for respondents No. 4 to 20

SUDHIR MITTAL, J. (Oral)

Respondent No. 4 and his brother had filed a partition application dated 11.09.2018 in respect of two separate Khewats i.e. Khewat No. 80 and 81. In the said application, the petitioner and others applied for impleadment claiming themselves to be co-sharers. The application was allowed vide order dated 07.01.2021 passed by the Assistant Collector 2nd Grade. The said order has been reversed by the Commissioner vide order dated 09.02.2021 and, thus, the present writ petition has been filed.

Learned counsel for the petitioner has submitted that the Commissioner, Hisar Division, Hisar has exercised his revisional jurisdiction in a completely illegal and irregular fashion. Order dated 07.01.2021 has been set aside on the date of institution of the revision petition without issuance of notice to the petitioner. The order deserves to be set aside on this short ground only.

Learned counsel for the private respondents submits that the impugned order does not adversely affect the rights of the petitioner as direction has been issued to carry out partition in accordance with a civil Court decree dated 10.04.1987. The said decree binds both parties and the petitioner cannot raise any grievance against the same. Thus, even though the impugned order was passed without issuance of notice to the opposite party, it is a legal and valid order.

The order dated 09.02.2021 passed by the Commissioner, Hisar Division, Hisar has reversed order dated 07.01.2021 passed by the Assistant Collector whereby the petitioner was added as party in the pending partition application. The result would be that partition would be carried out without the petitioner being a party to the partition proceedings and this would definitely affect the interest of the petitioner adversely despite there being a civil Court decree. The circumstances of the case did not require any urgent action and, thus, notice could well have been issued to the opposite party before deciding the revision petition. It is rudimentary that party against whose interest an order is to be passed must be heard while exercising quasi judicial function. Thus, the impugned order dated 09.02.2021 is not sustainable in law.

The writ petition is allowed and the order impugned therein is quashed.

Pending application(s), if any, stands disposed of.

10.10.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No