

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

LPA-313-2022

Date of decision : 28.04.2022

Ram Singh and others

.....Appellants

Versus

The State of Haryana and others

....Respondents

**CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Ashok Kumar Verma, Advocate
for the appellants.

Ms. Rajni Gupta, Addl. A.G., Haryana.

Mr. Amit Jain, Senior Advocate with
Mr. Chetan Salathia, Advocate
for respondent No.4/Caveator.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this appeal is to the judgment dated 25.03.2022 passed by the learned Single Judge whereby the writ petition preferred by the appellants stands dismissed.

It is the contention of the learned counsel for the appellants that the learned Single Judge while passing the impugned judgment dated 25.03.2022 had failed to appreciate that the houses which were constructed by the respective parties i.e. the co-sharers were 50 years old and the same could not have been, therefore, included in the agricultural land which is to be partitioned and the authorities do not have jurisdiction to partition non-agricultural land. He, on this basis, contends that the land on which the construction has been made would be an *abadi* area bringing it outside the

purview of partition as permissible under The Punjab Land Revenue Act. Counsel, therefore, contends that the impugned orders passed by the Revenue Authorities as also the learned Single Judge, would not be sustainable.

We have considered the submission made by the learned counsel for the appellants but do not find ourselves in agreement with the same as it is an admitted position that the appellants are in possession of the entire land. The effort on the part of the appellants had all through been to hold on to the possession of the entire land. The earlier mode of partition which has been finalised between the parties with the rejection of the objections as have been raised by the appellants before the said authority, was set aside in the first round of litigation by the Financial Commissioner, Punjab. On remand, it has again been found that the mode of partition did not appear to be unjust and unreasonable as the houses which have been constructed by the appellants have been assigned to the appellants and therefore, no loss has been caused to the appellants in any manner.

That apart, on the pretext of asserting that the constructed area cannot be included in the partition, the appellants intend to deprive the private respondents of their rights in the property in question. The authorities which have decided the matter have proceeded in accordance with the settled principle of law which do not call for any interference. The learned Single Judge has rightly relied upon the judgment of this Court in '***Amar Khan and others Vs. State of Punjab and others, 2009(1) RCR (Civil) 741***', where the factual position was the same as in the case in hand. The authorities had granted the constructed houses to the persons who had

actually constructed them and proceeded to partition the agricultural land accordingly.

In this case, we do not find any ground which would entitle the appellants interference in the orders passed by the Revenue Authority which have been approved and upheld by the learned Single Judge.

Finding no merit in the present appeal, same stands dismissed.

(AUGUSTINE GEORGE MASIH)
JUDGE

April 28th, 2022
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No