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

CWP-9941-2022 (O&M)
Date of decision:10.01.2023

RAVINDER KUMAR AND ANOTHER

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLR MR. JUSTICE KULDEEP TIWARI**

Present: Mr. V.P. Sangwan, Advocate for the petitioners.

Mr. Raman Sharma, Addl. A.G. Haryana

Mr. Sumit Sangwan, Advocate for respondent No.7.

SURESHWAR THAKUR, J. (ORAL)

1. The petitioners are aggrieved from the concurrently made verdicts respectively drawn by the learned Collector concerned, and, by the Appellate Authority concerned.

2. The Statutory Authorities concerned, had allowed the petition preferred by the Gram Panchayat Mandoli, under Section 7 of The Punjab Village Common Lands (Regulation) Act, 1961, wherein, the aggrieved had averred that the petitioners had encroached, upon the land owned, and, possessed by the Gram Panchayat.

3. The learned counsel appearing for the petitioners has argued with much vehemence before this Court, that both the Statutory Authorities below, did not, assign any valid reason for rejecting the demarcation report drawn, on

03.02.2020, which rather belied the demarcation report as became drawn on 09.06.2016. Therefore, he contends that when there were two comparative demarcation reports drawn in respect of the writ khasra numbers, hence unless valid reasons for accepting the one or the other or rejecting the one or the other were drawn by the Statutory Authorities concerned, thereupon the reliance as placed, upon the demarcation report drawn, on 09.06.2016, was hence an inapt reliance.

4. For the reasons to be assigned hereinafter the above made submission is completely shaky, and, is rejected. The petitioners and one Hawa Singh had instituted a suit for partition in respect of the estates co-owned, and, possessed by them. The said suit resulted in the rendition of a preliminary decree of partition by the Court of learned Addl. Civil Judge (Senior Division), Charkhi Dadri, Bhiwani. The preliminary decree of partition, as became passed by the above Court, did not become challenged at the instance of the litigants, before the Competent Appellate Authority. Thus, the preliminary decree of partition, as became rendered by the Court of learned Addl. Civil Judge (Senior Division), Charkhi Dadri, Bhiwani, is to be construed to assume finality.

5. Be that as it may, subsequent to the rendition of the preliminary decree of partition, as became rendered amongst the litigants in civil suit No.288 of 2005, decided on 14.09.2011, wherein, one Hawa Singh and the predecessor-in-interest of the petitioners were arrayed as litigants, one Hawa Singh preferred an application for the drawing of a final decree of partition, through a direction being passed, upon the Revenue Officer, for the latter being drawing a consensual mode of partition in respect of estates of the litigants concerned. The above was to ably facilitate the able makings of a final decree of partition, with echoings therein about equitable distribution of properties through metes, and,

bounds hence occurring amongst the litigants concerned. The above made order by the learned Addl. Civil Judge (Senior Division), Charkhi Dadri, Bhiwani did also result, as revealed by Annexure R-7/2 appended with the reply furnished to the petition by respondent No.7, in a final decree of partition being rendered by the learned Addl. Civil Judge (Senior Division), Charkhi Dadri, Bhiwani. Thereafter, it is also unfolded by Annexure R-7/2, that the warrants of possession, as became issued also did become completely executed. Consequently, the completest dismemberment of the joint estate of one Hawa Singh with the predecessor(s)-in-interest of the petitioners, obviously did happen then.

6. What is of striking importance, is the fact, that the demarcation report or the naksha parmaish, as became drawn by the Tehsildar concerned, and, which is appended as R-7/3, with the reply to the petition filed by respondent No.7, became the foundation for the rendition of a final decree of partition, in respect of estates of one Hawa Singh, and, the predecessor(s)-in-interest of the petitioners herein. The further striking aspect which is borne therein, is that, the Tehsildar Dadri who drew the same on 17.04.2016, has mentioned therein, that khasra No.188, has a gair mumkin street thereon.

7. The effect of the above revelation, as carried in the above annexure, is that, the assumption of possession by the litigants concerned, in pursuance, to a validly executed warrants of possession but after a complete dismemberment of the joint estate occurring amongst them, did become founded, upon Annexure R-7/3. Therefore, the said annexure when remains unchallenged rather when it became accepted without demur by the petitioners, thus, they are bound by all the revelations, as are carried in Annexure R-7/3, especially when no challenge is made to either the warrants of possession borne in Annexure R-7/2 nor it

stands proved that the pockets of lands as assigned therethroughs were of areas lesser than their entitlement nor when any valid claim was reared to the gair mumkin street. In consequence, the reliance as placed thereon, by both the Authorities below is both credible, and, apt. Contrarily, there was *prima-facie* no occasion for the petitioners to after accepting without demur, the demarcation report of 17.04.2016, to yet insist that a fresh demarcation be conducted nor also there was any occasion for the Statutory Authorities concerned, to yet proceed to evade the conclusive, and, binding effect of the demarcation report drawn, on 17.04.2016, necessarily, when the same became the foundation for the drawing of a conclusive final decree of partition in respect of the apposite joint estate.

8. This Court finds no merit in the writ petition, and, the same is dismissed. The concurrently made orders against the petitioners by both the Authorities are maintained, and, affirmed.

9. The orders be enforced in accordance with law but after hearing all concerned.

10. No order as to costs.

11. Since the main case itself has been decided, therefore, no fresh order is required to be passed in the pending miscellaneous application(s), and, the same also stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

10.01.2023

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(KULDEEP TIWARI)
JUDGE

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