

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

RA-LP-6-2022 & CM-60-LPA-2023
in LPA-279-2022
RESERVED ON:01.09.2023
PRONOUNCED ON: 20.11.2023

HARDYAL SINGH @ HARDAYAL
AND ANR.APPLICANTS/APPELLANTS

VERSUS

FINANCIAL COMMISSIONER (REVENUE)
AND ORS.RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Jasmail Singh Brar, Advocate
for the applicants-appellants.

Mr. B.P.S. Virk, Advocate
for respondent No.3.

SANDEEP MOUDGIL, J

1. The instant review application has been preferred by the applicants-appellants before this Court under Order 47 Rule 1 of CPC to review the order dated 04.04.2022.

2. Briefly stated, the factual background is through the order dated 14.08.2013, whereby *sanad takseem* qua the property in dispute was issued by the Assistant Collector IInd Grade-cum-Naib Tehsildar, Bhiwanigarh, District Sangrur. Challenge to the same by way of a revision petition, at the hands of the appellants was negated through the order dated 07.02.2018 by the Financial Commissioner, Punjab.

Both the aforesaid orders were assailed before the learned

Single Judge of this Court through CWP No.6867 of 2018 titled as ***“Hardayal Singh and another versus Financial Commissioner (Revenue) and others”***, which was also dismissed on 16.12.2021.

4. Aggrieved by the order of the learned Single Judge, an intra-court appeal was preferred by the applicants/appellants *inter alia* on the grounds that the shareholders in the two partition applications are not the same as there are some, who have no share in a particular chunk of land in one application whereas in the other they are the shareholders; with even a single shareholder being different in a partition application, the same could not been clubbed together and, therefore, the process of clubbing up leading to the passing of final order itself renders the *sanad* issued on the partition of the land unsustainable and that the Revisional Authority had also failed to appreciate that the *sanad takseem* had been carried out in a hasty manner and without grant of any opportunity to the applicants/appellants to file their objections to the proposed *sanad takseem*.

5. It was the admitted position between the parties that the father of applicants/appellants had sold his share in the property in question to one Baljinder Singh son of Ranjit Singh vide sale deed dated 18.06.2010 and, therefore, the applicants/appellants had no interest in the partition proceedings.

6. On the above ground and after referring to the conduct of the applicants/appellants, who choose not to participate in the process of the partition proceedings as they never raised any objection whatsoever, and thus, being estopped from taking any plea before the Revisional Authority as well as the Writ Court, the Letters Patent Appeal was dismissed on

04.04.2022.

7. Now with an another attempt to have a rehearing of the matter, the present review application has been filed before this Court on the following grounds:-

“(i) Because there is an error apparent on the face of record. Review petitioners are co-owners in total land 87 Bigha 14 Biswa of Khewat no. 46 (subject matter of partition application file no. 110/AC-1) in their individual capacity. Petitioners are not claiming this land through their fathers as they have inherited it from their grandfather and mutation of inheritance is already incorporated in the Jamabandi which is the basis of above said partition application. Review petitioners were co-owners with their father and others even prior to sale deed dated 18.06.2010 executed in favour of Respondent no.3. Findings of the Hon'ble Court that father of the appellants had sold his share in the property in question to Baljinder Singh respondent No. 3 vide sale deed dated 18.06.2010, with this, there was no interest left of the appellants in the proceedings before the Assistant Collector IInd Grade are not based on the material on record. Review petitioners are co-owners as such they have their independent right to challenge Sanad Takseem and order dated 07.02.2018 passed by the Financial Commissioner.

(ii) Because review petitioners are aggrieved as another Partition Application no. 109/AC-1 qua Khewat No. 46 in which review petitioners are not co-owners have been clubbed with 110/AC-1 in their absence illegally. Respondent no. 3 has been allotted land in Khewat no. 47 in one chunk. As such share of ownership of review petitioners have reduced in the land of this Khewat. Review petitioners cannot get share of ownership in land of Khewat no. 46 hence they are aggrieved.

(iii) Because there is no malafide on the part of Review petitioners as they are still owners in possession in their independent capacity apart from the sale of land by their father to contesting respondent no.3 vide sale deed dated 18.06.2010. Review petitioners are not harassing respondent no.3 rather they are being harassed by him.

(iv) Because there are other sufficient reasons as review petitioners cannot get any passage or water course from the land in which they are not co-owners. Revenue officers have no jurisdiction to correct the entries recorded in the Jamabandi. By clubbing the two Khewats Jamabandi entries would be changed. Permitting the order dated 04.04.2022 to stand will lead to failure of Justice.”

8. After hearing learned counsel for the applicants/appellants and having gone through the judgment passed in LPA-279-2022, which is sought

to be reviewed on the grounds which have been reproduced hereinabove, we are of the view that the instant application deserves outright rejection on the following three accounts, which have already been considered at the time of passing the order dated 04.04.2022:-

(i) The applicants/appellants lost interest in the partition proceedings in the light of admitted position that the father had already sold his share out of the suit property to respondent No.3-Baljinder Singh son of Ranjit Singh vide sale deed 18.06.2010.

(ii) During the process of partition proceedings, the applicants were duly served and initially appeared before the Assistant Collector IInd Grade but later on their own stopped appearing and neither filed nor raised any objection whatsoever at any stage.

(iii) The conduct of applicants/appellants was also recorded by the bench while deciding the Letters Patent Appeal observing that it is a case of *mala fide* on the part of applicants/appellants, who are left with no interest in the partition proceedings and are now continuing with the litigation with the sole motive and object of harassing the respondents by keeping them entangled in multiple litigation process with the sole idea of delaying the process of partition.

9. Neither any other ground has been raised seeking review of the order dated 04.04.2022 nor there is any change of circumstance as the applicants/appellants have failed to establish any such new fact or position of law which has not been considered before the LPA Bench earlier.

10. Having examined the submissions and perusing the pleadings, we are fully convinced that in the order dated 04.04.2022, there is no

mistake or error apparent on the face of record. To review its own order, this Court also has to bear in mind that review is by no means an appeal in disguise whereby only an erroneous decision is reheard or corrected but lies only where there is a patent error, which observation of ours is also in line with the dictum of the Apex Court in its judgment titled as “*Parsion Devi versus Sumitri Devi' 1997 (4) R.C.R. (Civil) 458*”

11. We, therefore, do not find any ground to entertain the instant review application. Hence, the same stands dismissed.

(SANDEEP MOUDGIL)
JUDGE

(DEEPAK SIBAL)
JUDGE

20.11.2023

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>