

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

CWP-16285-2023

Date of decision : 31.07.2023

Hardev Singh and another

.....Petitioners

versus

Financial Commissioner (Appeals) Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Madan Lal Saini, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for issuance of writ in the nature of certiorari for quashing the impugned order dated 22.09.2009 passed by Assistant Collector Ist Grade, Gurdaspur; order dated 30.09.2010 passed by Collector, Gurdaspur; order dated 27.01.2014 passed by Commissioner, Jalandhar, Division Jalandhar and order dated 20.01.2023 passed by respondent No.1 illegally, arbitrary and without considering the claim of the petitioners of the land 4K-0M purchased by them through sale deed dated 13.04.1987 and without considering the relevant Jamabandi for the year 1982-1983 in which the petitioners have been shown in possession of the land purchased by them as vendee in the column of possession.

It has been contended by counsel for the petitioners that the petitioners purchased 4 kanal of land by way of registered sale deed dated 13.04.1987 and its possession was delivered. It is submitted that Chhaju Ram sell the land to Dittu Ram and Sanjhi Ram but the same was taken back in the compromise effected during the pendency of civil suit filed

by his minor son Balvir Singh and this land was referred back to the khata of Chhaju Ram and thus, was required to be included in the land to be partitioned. He submits that application under Section 111 of the Punjab Land Revenue Act for the partition of the land was filed by Arjan Singh and Sabar Singh. It is submitted that the petitioners are the *bona fide* purchasers of the land in Khata from Chhaju Ram. He submits that Assistant Collector, 1st Grade while ignoring the sale deed and relying only on the mutation of the joint land ordered partition vide order dated 22.09.2009. He submits that Assistant Collector 1st Grade should have relied upon the sale deeds executed by the share holders with regard to their shares. He submits that possession of the Khasra No.54//11/2(04-0) was handed over to the petitioners. He submits that Chhaju Ram father of Balvir Singh executed sale deed on 13.01.1961 in favour of Dittu Ram of Khasra No.68/11(8-0) and in the similar way, Chhaju Ram again executed another sale deed dated 26.03.1963 in favour of Sanjhi Ram of land bearing Khasra No.67//14(12-0). These sale deeds were challenged by his minor son Balvir Singh in the Civil Court and later on, compromise was effected between the parties and thus, vide order dated 01.06.1968, the suit was decreed and the land went back in khata of Chajju Ram. He submits that as there were three khewats but a single application was filed for partition of all three khewats which was not maintainable and thus, there should have been three different applications for their partition. He has further submitted that the petitioners were proceeded *ex parte* by Assistant Collector 1st Grade and thus, application was wrongly decided. He submits that as per the mode of partition, the possession was to be kept intact but Assistant Collector 1st Grade not only disturbed the

possession but even removed the ownership of 4 kanal land purchased by the petitioners from the land in dispute. He submits that the provisions of Section 20(1) and 20(4) of the Act have not been complied with as service of the petitioners had not been effected in accordance with the statutory provisions. He further submits that some of the right holders of the joint land sold the land more than their shares but this fact was not taken into consideration. He further submits that *Naksha Jeem* was wrongly prepared. He further submits that no opportunity for hearing was granted to the petitioners and the proceedings were carried out in total violation of the established procedure of law and thus, the impugned orders dated 22.09.2009, 30.09.2010, 27.01.2014 and 20.01.2023 are unsustainable in the eyes of law.

Heard. After hearing counsel for the petitioners and perusing the record, it is apparent that the partition proceedings were initiated by way of filing the application under Section 111 of the Punjab Land Revenue Act by respondent-Arjan Singh. In view of the same, proceedings were initiated and notices were issued. As is apparent from the record, *munadi* was conducted in the village. Some of the respondents appeared but when the remaining respondents failed to appear despite *munadi*, they were proceed *ex parte* vide order dated 04.12.2007. The map *urra* was made available and the parties were directed to file objections however, on recording their statements, they raised no objection on the map *urra* and despite granting last opportunity when the objections were not filed, vide order dated 22.04.2008, the objections on the map *urra* were closed to be entertained. The objections regarding the mode of partition were heard wherein it was agreed to keep the

possession intact. On hearing objection, naksha *arra* was also sanctioned and thus, the learned Assistant Collector announced his order dated 22.09.2009 and against the same, the appeal was filed by the petitioners before the Sub Divisional Magistrate. The parties were heard and the record was perused. It was found that no objection to naksha *urra* was filed despite affording opportunity and thereafter, mode of partition was prepared and the order of partition was passed on 22.09.2009. Subsequent to that, the *Sanad Takseem* after observing the legal formalities was issued on 22.01.2010. Thus, finding no merit in the appeal, the same was dismissed. Aggrieved by the same, petitioners thereafter, filed the revision petition under Section 16 of the Punjab Land Revenue Act. Learned Revisional Court issued notice in the same and heard both parties. It was found from the record that the petitioners had duly participated in the partition proceedings and had raised no objection. The petitioners did not raise any objection regarding *naksha urra* and finally, *sanad takseem* was also issued on 22.01.2010. It is apparent that the partition proceedings were initiated and thereafter, the petitioners had availed the remedy of appeal and revision as well.

Thus, in the facts and circumstances of this case, this Court does not find any perversity in the orders passed by the Assistant Collector, Collector, Revisional and Appellate Authority. The orders being not suffering from any perversity is upheld and the writ petition being devoid of any merits is hereby dismissed.

31.07.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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