

130

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

CWP-26601-2023

Date of decision : 28.11.2023

Baljinder Kaur and others**.....Petitioners**

versus

State of Punjab and others**..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Paramjit Singh Jammu, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside the impugned order dated 24.08.2023 (Annexure P-9) passed by the Court of Financial Commissioner, Punjab, Chandigarh vide which ROR filed by the petitioners has been dismissed against the partition proceedings as well as impugned order dated 24.09.2018 (Annexure P-5) passed by Assistant Collector 2nd Grade, Kapurthala vide which sanad takseem has been issued as well as impugned order dated 07.02.2019 (Annexure P-7) passed by SDM-cum-Collector, Kapurthala vide which appeal filed by the petitioners against the order dated 07.08.2018 (Annexure P-4) has been dismissed as well as impugned order dated 24.01.2023 (Annexure P-8) passed by learned Commissioner, Jalandhar Division, Jalandhar vide which appeal filed by the petitioner was also dismissed as the abovesaid orders are illegal, arbitrary and are liable to be set aside.

It has been contended by counsel for the petitioners that respondent No.5 has filed a false and frivolous partition proceeding for

partitioning the land measuring 55 kanals 17 marlas. He has further contended that respondent No.5 in connivance with revenue authorities tried to get the partition of the land as per his convenience. He has contended that possession of the land has been disturbed in violation of the terms and conditions of the mode of partition. It is submitted that the petitioners filed their objections on framing of Naksha 'A' but the same were not considered and hence, the petitioners filed an appeal before the Commissioner. Learned Commissioner decided the appeal by passing the order dated 06.09.2016 and remanded the case to the Assistant Collector 1st Grade, Kapurthala by passing a speaking order. He submits that the case was remanded with a specific direction but despite that Assistant Collector did not frame Naksha 'A' accordingly and passed the order dated 07.08.2018 in a hasty manner. It is submitted that aggrieved by the same, petitioners filed an appeal before learned Collector wherein the stay was granted vide order dated 25.09.2018 by SDM Kapurthala. He submits that despite that the Assistant Collector passed sanad takseem w.e.f. 24.09.2018. It is contended that the petitioners filed an appeal before the learned Collector-cum-SDM Kapurthala however, the appeal was illegally dismissed by way of passing the impugned order dated 07.02.2019. Being aggrieved, the petitioners filed an appeal before learned Commissioner but the learned Commissioner illegally dismissed the same vide impugned order dated 24.01.2023. He submits that respondent No.5 has got the transfer/exchange of the land with Parkash Kaur widow of Bakshish Singh in the year 2009 and thus, he was the last vendee. He submits that respondent No.1 has intentionally restored the partition application which was dismissed in default. He submits that

being aggrieved, petitioners filed the revision before respondent No.1 however, the same has been illegally dismissed by respondent No.1 vide impugned order dated 24.08.2023. He submits that the impugned orders have been passed in violation of the statutory provisions of the settled principles of law and thus, deserve to be *set aside*.

Heard. After hearing counsel for the petitioners and perusing the record, it is apparent that the partition proceedings were initiated at the behest of respondent No.5-Charan Singh and on filing the same, notice was issued to the other side and the objections were filed by the petitioners' side. The requisite proceedings thereafter were carried out. Aggrieved by the same, petitioners filed the appeal before learned Collector. Learned Collector heard both the sides and finding no merit, dismissed the appeal vide his order dated 07.02.2019. The sanad takseem was approved on 24.09.2018. Petitioners filed the appeal before learned Commissioner. After hearing both the sides and finding no merit in the same, learned Commissioner dismissed the appeal vide order dated 24.01.2023. Being aggrieved, the petitioners challenged the order by way of filing the revision before Learned Financial Commissioner. Learned Financial Commissioner heard both the sides and re-appreciated the record. On hearing both the sides, it was specifically found that petitioner-Baljinder Kaur was entitled to the land measuring 5 kanals 3½ marlas. However, the petitioner had purchased the land measuring 6 kanals 3 marlas from Amrik Singh and Shiv Darshan vide registered sale deed dated 23.08.2006 who had sold the land in excess of their share. As per the settled principles of law, the vendor could not have sold the land more than that of his entitlement which was found to have been totally

violated in this case as the vendor sold the land more than their share. Thus, the objections filed by the petitioners were found to be without any basis and the same were rejected. On perusal of the file and appreciating arguments raised by counsel for the petitioners and perusing the record, this Court does not find any infirmity in the impugned orders passed by the Courts below and thus, the present petition being devoid of any merits, is hereby dismissed.

28.11.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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