

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

CWP-1245-2024

Date of decision : 19.01.2024

Ramesh Kumar and another

.....Petitioners

versus

The State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Ashok Kumar Verma, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the order dated 01.12.2020 (Annexure P-6) passed by the Assistant Collector IInd Grade, Nilokheri, District Karnal, respondent No.2; order dated 08.03.2021 (Annexure P-8) passed by the District Revenue Officer and Collector, Karnal, respondent No.3 and order dated 31.10.2023 (Annexure P-9) passed by the Divisional Commissioner, Karnal Division, Karnal, respondent No.4.

It has been contended by counsel for the petitioners that the private respondents filed an application dated 15.06.2018 before the Assistant Collector IInd Grade, Nilokheri for seeking partition of the land measuring 157 kanals and 01 marla comprised in Khewat No.461(111 kanals 01 marla) and Khewat No.462(46 kanals) as per Jamabandi for the years 2016-17 situated in Village Nigdu, Tehsil Nilokheri, District Karnal. He submits that in compliance of the notice issued by the learned Assistant Collector, the petitioners appeared before him and filed their

joint reply to the partition application. It is submitted that the

petitioners also filed their objections to the application. It is vehemently contended that the partition has already taken place by way of family partition and thus, the application filed for partition was not maintainable. He submits that learned Assistant Collector however, prepared the proposed mode of partition dated 30.08.2019 without considering the objections filed by the petitioners. It is submitted that the petitioners filed their objections dated 11.02.2020 against the proposed mode of partition dated 30.08.2019 and reiterated their objections taken in the reply filed earlier. He submits that learned Assistant Collector prepared the amended mode of partition dated 01.12.2020 accepting only one objection of the petitioners. He submits that the learned Assistant Collector on hearing the parties, rejected other objections of the petitioners and sanctioned the amended mode of partition dated 01.12.2020 vide impugned order dated 01.12.2020. He submits that being aggrieved, the petitioners filed an appeal dated 16.12.2020 before the learned Collector. It is submitted that the petitioners specifically contended that the land under partition has already been partitioned by way of family partition on 23.05.2011 and all the co-sharers including the petitioners were in cultivating possession as per their respective shares and the petitioners had installed a tubewell in their share. He submits that it was specifically contended that the petitioners had invested huge amount in installing the tubewell and growing the orchard. However, learned Collector failed to appreciate the same. He submits that two different khewats could not be joined in the partition application they have been clubbed during the partition proceedings. He submits that without appreciating the objections filed by the petitioners, learned Collector, Karnal illegally dismissed the appeal

filed by the petitioners vide the impugned order dated 08.03.2021. He submits that aggrieved by the same, petitioners filed the revision petition before the learned Commissioner however, learned Commissioner, Karnal also miserably failed to appreciate the submissions made by counsel for the petitioners and thus, illegally upheld the order passed by the Collector vide impugned order dated 31.10.2023. He submits that the impugned orders passed being arbitrary and non-speaking deserve to be *set aside*.

Heard. After hearing counsel for the petitioners and perusing the record, it is evident that the partition proceedings were initiated by the respondents by way of filing application under Section 111 of the Punjab Land Revenue Act in the Court of learned Assistant Collector 2nd Grade, Nilokheri. Objections filed by the petitioners were duly appreciated by the learned Assistant Collector 2nd Grade however, finding no merit in the same, the same were declined and thus, the amended mode of partition was accepted on 01.12.2020. As per the amended mode of partition dated 01.12.2020, it is evident that as per Condition No.3, it was agreed that the land would be divided amongst all the co-sharers keeping in view the kind and value as per share of all the co-sharers. Thus, the revenue authorities proceeded with the partition proceedings in accordance with the terms and conditions of the mode of partition. The precise submissions made by counsel for the petitioners is that there was a family partition and thus, the partition application filed by respondents was not maintainable. However, there is nothing on record to show that the family partition contended by counsel for the petitioners was entered in the revenue record and thus, the oral contention raised has no value in the eyes of law. Besides this, the second contention raised by counsel for the

petitioners that they were in possession of their shares since long and had invested huge amount for installing the tubewell etc. However, it is apparent that before the partition, petitioners were in possession of their respective shares and once amended mode of partition was issued with the condition that the partition proceedings would be carried out keeping in view the value of the land, the possession of any of the co-sharers would be immaterial and partition proceedings were to be carried out keeping in view the quality of the land and thus, the possession of the co-sharers was bound to get effected on partitioning the land on the basis of the value of the land. The partition proceedings were carried out keeping in view the principles of partition proceedings and thus, this Court does not find any merit in the contentions raised before this Court. Resultantly, the petition being devoid of any merits is hereby dismissed.

19.01.2024
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

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