



CWP-3775-2024

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

CWP-3775-2024

Date of Decision: 28.05.2024

Sukhjinder Singh

..... Petitioner

Versus

The State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Charan Mittal, Advocate, for the petitioner.

Rajesh Bhardwaj, J.**CM-9167-CWP-2024**

Allowed as prayed for. Annexures P-10 to P-12 are taken on record.

Main case

1. Prayer in the present petition is for quashing the impugned order dated 14.10.2022 (Annexure P-7) passed by respondent No.1 vide which learned Financial Commissioner has dismissed the revision petition against the impugned order dated 27.08.2014 (Annexure P-5) passed by learned Divisional Commissioner, Patiala and setting aside the impugned order dated 30.08.2013 (Annexure P-3) passed by the District Collector, Sangrur and for setting aside the order dated 17.11.2011 (Annexure P-1) passed by the Assistant Collector Ist Grade, Sangrur. Further prayer has been made to issue direction to the private respondents to not to interfere in the peaceful possession of the land of the petitioner as the petitioner has already installed the tubewell in the land in possession and further to stay the operation of the impugned orders.



2. It has been contended by learned counsel for the petitioner that respondent No.6- Raghbir Singh filed an application under Section 111 of the Punjab Land Revenue Act, 1887 before Assistant Collector Ist Grade, for partition of land measuring 13 Bighas 01 Biswas, in which the petitioner appeared before the Assistant Collector Ist Grade and filed his objections. It is submitted that the Assistant Collector Ist Grade without considering the objections filed by the petitioner, concluded the partition proceedings by issuing *Sanad Takseem* vide order dated 17.11.2011. He submits that aggrieved by the same, the petitioner filed an appeal before the Collector-cum-Sub Divisional Magistrate on 19.12.2011. It is submitted that without appreciating the grounds taken therein and the submissions made by the petitioner, the appeal was dismissed vide order dated 30.08.2013. Thus, aggrieved by the same, the petitioner assailed the order dated 30.08.2013 by way of filing revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the Commissioner, Patiala Division, Patiala on 26.09.2013. He submits that learned Commissioner without taking into consideration the evidence on record and without providing proper opportunity of hearing to the petitioner, has illegally dismissed the revision petition vide his order dated 27.08.2014. Still aggrieved by the same, the petitioner filed a revision petition before learned Financial Commissioner, Punjab on 01.12.2014. He submits that learned Financial Commissioner has also fallen in error in not appreciating the submissions made in the light of the law settled and thus, dismissed the revision vide impugned order dated 14.10.2022. It has been further contended by learned counsel for the petitioner that respondent No.6-Raghbir Singh was allotted valuable land



abutting the *Pahi* and was given land more than the share he was actually entitled, whereas, the petitioner was allotted land by fragmenting his share in small pieces. He submits that land bearing No.18//16/1, where the petitioner had installed motor and constructed *Kotha* was also allotted to respondent No.6- Raghbir Singh and thus, the possession of the petitioner has been disturbed in violation of mode of partition. He submits that learned Financial Commissioner has dismissed the revision petition filed by the petitioner on the basis of the compromise entered into between the parties and the order passed by learned Civil Court. He submits that the compromise as relied upon by learned Financial Commissioner was irrelevant in the facts and circumstances of the present case. He has vehemently contended that the partition proceedings were carried out totally in violation of the principles of mode of partition and the *Sanad Takseem* and is unsustainable in the eyes of law and hence, the impugned orders being against the settled principles of partition, deserves to be set aside.

3. After hearing learned counsel for the petitioner and perusing the record, it is deciphered that the partition application was filed by respondent No.6- Raghbir Singh. After summoning the co-sharers /respondents, *Naksha Urra* was approved on 20.07.2005 and on 16.09.2005, mode of partition was approved and *Naksha Arra* was called. Amended *Naksha Arra* was approved on 17.10.2011. After considering the objections of the parties, *Naksha Irri* was approved and finally instrument of partition i.e. *Sanad Takseem* was issued on 17.11.2011. Thereafter, the appeal and revision filed by the petitioner before the competent authorities were dismissed. As apparent from the facts of the case, respondent No.6- Raghbir



Singh filed civil suit for permanent injunction against the petitioner and the petitioner was restrained from raising any sort of construction and changing the nature of the suit land. In the civil suit filed by respondent No.6- Raghbir Singh, injunction was granted by the Civil Court vide order dated 07.10.2004. It is further evident that the petitioner assailed the order dated 07.10.2004 by way of filing an appeal before learned District Judge, Sangrur and during the pendency of this appeal, the petitioner and respondent No.6 entered into a compromise and thus, the same was decided in view of the compromise arrived at between them vide order dated 10.12.2004. Thus, it is evident that the parties amicably resolved the issue by way of compromise arrived at between them and the objections filed by the petitioner were also considered by the Assistant Collector Ist Grade. The petitioner did not file any objection against *Naksha Irri*. The mode of partition was approved on 16.09.2005 and there were no objections filed by the petitioner against the same. The appeal and revision filed by the petitioner were dismissed by the Revenue Authorities after hearing both the sides and perusing the record.

4. From the perusal of Annexure P-10 i.e. the order dated 16.09.2005 passed by Assistant Collector Ist Grade, Sangrur, it is apparent that the petitioner was granted last opportunity for recording his statement on the mode of partition and despite the same, he did not file any objections and thus, by observing that he intentionally did not want to record his statement, further partition proceedings were carried out. There are concurrent findings by the Revenue Authorities and no material prejudice has been found to be caused to the petitioner and thus, this Court finds no

scope of interference in the partition proceedings arrived at. Hence, the present petition being devoid of any merit, is hereby dismissed.

28.05.2024

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No