

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

**CWP-10413-2023
Decided on: 08.02.2024**

Randhir Singh (deceased through LRs)

..... Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr.Mohit Rathee, Advocate, for the petitioner.

Ms. Upasana Dhawan, Assistant Advocate General, Haryana.

Rajesh Bhardwaj, J.

Prayer in the present petition is for setting aside the order dated 03.02.2023 (Annexure P-6) passed by the Financial Commissioner, Haryana whereby the revision petition filed against the impugned order dated 27.12.2000 has been dismissed in illegal, arbitrary manner, without going into the merits of the case and to set aside the order dated 13.09.2001 (Annexure P-4) passed by the learned Financial Commissioner, Haryana; order dated 27.12.2000 (Annexure P-3) passed by the learned Commissioner, Rohtak Division and order dated 17.06.1998 passed by the learned Assistant Collector, Rohtak.

It has been contended by learned counsel for the petitioner that the private respondents filed on application for partition before the Assistant Collector Ist Grade, Rohtak, however, the learned revenue authority without considering the fact that the petitioner was in possession of the property from the last 40 years and had planted various trees on the land, partitioned the land on 17.06.1998 in violation of the mode of partition. He submits that aggrieved by the order dated 17.06.1998, the petitioner filed an appeal before the Collector/DRO, Rohtak, who vide his order dated 05.02.1999

accepted the appeal and ordered that the land comprising in Khasra No.85/2/2, 3/1 be given to the petitioner, whereas, the land comprising in Khasra No.86/2-3/2 be given to the respondent. It is submitted that aggrieved by this order, the private respondents filed an appeal before the Commissioner, Rohtak Division, who illegally set aside the well reasoned order passed by the Collector vide his order dated 27.12.2000. It is further submitted that aggrieved by the same, the petitioner challenged the order dated 27.12.2000 by way of filing ROR No.156/2000-2001 before the learned Financial Commissioner, Haryana, however, the same was dismissed vide order dated 13.09.2001. It is submitted that the petitioner filed CWP-1438-2002 before this Hon'ble Court challenging the order dated 13.09.2001, wherein, the order dated 13.09.2001 was set aside vide order dated 19.05.2003 by remanding the case for decision afresh. The learned Financial Commissioner in compliance of the order dated 19.05.2003 passed by this Court, passed a fresh order again dismissing the revision petition filed by the petitioner vide order dated 03.02.2023. Learned counsel for the petitioner has vehemently contended that the partition proceedings were carried out by the respondent-authorities in violation of the mode of partition. He has submitted that the petitioner was in possession of the land from the last 40 years and had invested huge amount for carrying out substantial improvements in the land in question. He has drawn the attention of this Court to the site plan and has submitted that it is apparent that the possession of the petitioner was disturbed after the partition of the land. It is submitted by him that the land more valuable has been given to the respondent, whereas, the petitioner has been given land of less value, thus, the partition proceedings being in violation of the

principles of partition, deserve to be set aside. He has relied upon the judgment of this Court in Chhatar Singh vs. State of Haryana, in CWP-10536-2009 decided on 31.01.2012.

Learned State counsel has opposed the submission made by counsel for the petitioner and has submitted that the partition proceedings were carried out as per the mode of partition and principles of partition. Thus, there being no infirmity in the impugned orders passed, the present petition deserves to be dismissed.

Heard learned counsel for the parties and perused the record. It is apparent that after filing of the application for partition, necessary notices were issued to all the co-sharers including the petitioner, who duly joined the partition proceedings. Mode of partition was approved. Condition No.2 of mode of partition is as under:-

“2. According to Farikan’s statement on divisible land, their combined possession shows. So, the division will be done by keeping in mind the type and value of land, keeping the possession out. If a good quality or more valuable land is in possession of more than its share, then in such situation the possession will be broken and the division will be done and the deficiency will be completed.”

Perusal of the aforesaid condition No.2 shows that the as per mode of partition, the partition proceedings were to be carried out keeping in mind the type and value of the land, keeping the possession out. Thus, it is evident that the priority for the partition of the land was given to the value of the land and thus, not to disturb the possession of the parties during the partition was unavoidable. Perusal of the orders passed by the authorities would show that the Collector appointed Local Commissioner as well seeking report from him. Accordingly, the partition proceedings were

carried out so as to ensure that no prejudice is caused to either of the parties. The total land was divided into 4 taks and 3 taks out of 4 taks abut the Jind-Rohtak Highway except the tak allotted to respondents Om Parkash and others. On the basis of the same, the partition proceedings were carried out. The site plan produced by counsel for the petitioner was also appreciated.

Thus, in the overall facts and circumstances of the case, this Court does not find any prejudice caused to the petitioner in partitioning the land. Hence, the present petition being devoid of any merit is hereby dismissed.

08.02.2024			(RAJESH BHARDWAJ)
sharmila			JUDGE
	Whether Speaking/Reasoned	:	Yes/No
	Whether Reportable	:	Yes/No