

115 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11952-2024 (O/M)
Date of decision : 21.10.2024

Azad Singh and others Petitioners

Versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Manoj Kumar, Advocate
for the petitioners.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Petitioners (Azad Singh and others) have filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 03.10.2022 (Annexure P-5), passed by Assistant Collector 1st Grade, Sonipat and also the order dated 22.02.2024 (Annexure P-8), passed by learned Commissioner, Rohtak Division, Rohtak (in short 'Divisional Commissioner') in the partition proceedings.

2. Briefly, respondent No. 5 (Balbir Singh) filed an application, seeking partition of joint land, comprised in Khewat No. 31, measuring 70 Kanals – 2 Marlas, situated in village Machroli, District Sonipat, as per Jamabandi for the year 2016-17. In the aforesaid partition application, the petitioners alongwith respondents No. 6 and 7 were impleaded as party respondents.

2.1 It appears that the partition proceedings concluded with the passing of the order dated 03.10.2022 (Annexure P-5). A further appeal filed by the petitioners before learned Divisional Commissioner was also dismissed, vide order dated 22.02.2024 (Annexure P-8). Hence, the instant civil writ petition.

3. During the course of hearing, the only submission raised on behalf of petitioners is that petitioners were totally unaware about the partition proceedings as the counsel, who appeared on behalf of petitioners before learned Assistant Collector, was never engaged by them (petitioners) and they never signed on any power of attorney or other documents. It is accordingly stated that a fraud has been played upon them, therefore, entire partition proceedings stand vitiated and the same be set aside.

4. I have considered the aforesaid submissions raised on behalf of petitioner, however, I do not find any merit in the same in view of what has been observed by learned Divisional Commissioner in order dated 22.02.2024 (Annexure P-8), which reads as under :-

“ Ld. Counsel for respondents argued that all the allegations levelled by petitioners are false and baseless. Counsel of petitioners was present in Trial court and certified copy of POA is available on file, and the same is signed by Sh. Bijender Singh Advocate and bears signatures of petitioners and name of counsel is also there. There were total four cases between parties but no appeal has been filed in three other cases. Petitioners filed no objection on Naksha Khe before Trial Court. Land was partitioned as per possession and respondent No. 1 has also been allotted at 5 places. And apart from that physical

possession has also been taken place. So, at last it has been prayed that revision petition filed by the petitioners may kindly be dismissed.

I have carefully perused all the points raised and order passed by the Trial court. After analyzing the arguments advanced by ld. counsels for the parties, I came on to conclusion that POA filed on behalf of petitioners is available on file. Petitioners did not take objection on Tarika Taksim and Naksha Khe.

So the present petition is found to be baseless, without any merit and illegal and thus be dismissed. And the order passed by Tehsildar and A.C. 1st Grade is upheld. File be consigned to record room.”

4.1 A perusal of aforesaid observations would manifest that there were total four cases between the parties, whereas petitioners have not raised any challenge in other three cases. As regards the contention raised on behalf of petitioners that they have never engaged any counsel nor any documents were signed by them, it is observed that learned Divisional Commissioner has recorded a finding that on Power of Attorney (Annexure P-2), the signatures of petitioners are there. I have seen the said signatures on Annexure P-2 and compared the same with naked eye with the signatures of the petitioners on the Vakalatnama attached with the instant writ petition and they appear to be similar.

4.2 It is further noticeable that the partition application was filed by respondent No. 5 (Balbir Singh) against present petitioners as well as respondents No. 6 and 7, who are all real brothers. The present petitioners as well as respondents No. 6 and 7 were all represented by their counsel Shri Bijender Singh, Advocate. Evidently, respondents

No. 6 and 7 have not raised any challenge to order(s) passed by learned Assistant Collector.

4.3 Furthermore, from a perusal of complaint (Annexure P-9), submitted by petitioners before Police Commissioner, Sonipat, it is made out that the petitioners have made allegations as regards forged power of attorney against their brother Balbir Singh (respondent No. 5 herein) only, who had filed the partition application. There is no allegation against his other brothers, namely, respondents No. 6 and 7 herein nor there is any complaint against counsel, who had appeared for them. It is apparent that the petitioners have challenged the partition proceedings with some oblique motive.

4.4 That apart, learned counsel for petitioners has failed to point out as to what prejudice/loss has been caused to the petitioners with the manner in which the partition has been conducted, so as to warrant interference by this Court.

5. In view of above discussion, I do not find any merit in the instant civil writ petition and same is accordingly dismissed.

6. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

21.10.2024
sjks

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