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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16341-2024 (O/M)

Date of decision : 17.07.2024

Surta Ram and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Vikram Singh, Advocate
for the petitioners.

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HARSH BUNGER, J. (ORAL)

1. Prayer in the instant civil writ petition is for issuance of a writ in the nature of certiorari for setting aside the orders dated 03.04.2024 and 27.08.2019 (Annexure P-11 and Annexure P-9, respectively), passed by respondent No. 2 and respondent No. 3, respectively and also the orders dated 29.11.2018 and 05.12.2018 (Annexure P-6 and Annexure P-7, respectively), passed by respondent No. 4 (Assistant Collector 2nd Grade, Ladwa, District Kurukshetra).

2. Briefly, respondents No. 5 to 9 herein filed two applications, seeking partition of Khewat No. 43 (103 Kanal 8 Marla) and Khewat No. 15 (61 Kanal 13 Marla), situated in village Jandhera, Hadbast No. 66, Tehsil Ladwa, District Kurukshetra. As per pleaded case of the petitioners, both the Khewats were clubbed together and statements of the parties were recorded and thereafter, mode of partition was proposed and subsequently sanctioned. Thereafter, Naksha 'Be' was called for from the Field Staff and upon receipt of the same, objections

thereto were called for by the concerned authority, to which the present petitioners submitted their objections, which were opposed by private respondents. The aforesaid objections to Naksha 'Be', submitted by the petitioners, came to be dismissed by the Assistant Collector 2nd Grade, Ladwa, vide order dated 29.11.2018 (Annexure P-6) and Naksha 'Be' was accepted. Thereafter, Neksha 'Zeem' was prepared by the Field Staff and the same was accepted by the learned Assistant Collector 2nd Grade-cum-Tehsildar, Ladwa, vide order dated 05.12.2018 (Annexure P-7).

3. Being aggrieved against the aforesaid order dated 29.11.2018 (Annexure P-6) and order dated 05.12.2018 (Annexure P-7), passed by Assistant Collector 2nd Grade-cum-Tehsildar, Ladwa, the petitioners preferred an appeal before the learned Collector, Kurukshetra, which came to be dismissed, vide order dated 27.08.2019 (Annexure P-9) and further a revision filed by the petitioners before the Divisional Commissioner, Ambala Division was also dismissed on 03.04.2024 (Annexure P-11).

4. In the aforementioned circumstances, the petitioners have filed the instant writ petition before this Court for the relief, as noticed above.

5. The sole contention of learned counsel for petitioners is that during partition, possession of petitioners has been disturbed, which is contrary to Clause 3 of mode of partition.

6. I have heard learned counsel for petitioners and have also perused the paper book, Clause 3 of mode of partition (Annexure P-2), which reads as under :-

“3. That at the time of partition, the land adjoining to the road will be given to all share holders as per their share. Partition so far as possible will be done keeping the possession intact. Possession can be disturbed be necessity arise.”

7. Apparently, the partition was to be carried out by keeping the possession intact, however, it is also provided in Clause 3 of mode of partition that the possession can be disturbed, if necessity arises and, therefore, it cannot be accepted that the possession was not to be disturbed under any circumstances.

8. Learned counsel for petitioners has failed to point out any prejudice caused to the petitioners by the manner, in which the partition has been carried out. The partition appears to be fair and equitable. Therefore, there is no scope of any interference in the impugned orders.

9. Accordingly, the instant writ petition fails and the same is dismissed.

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

(HARSH BUNGER)
JUDGE

17.07.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No