

109

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-24670-2023

Date of Decision: January 09, 2024

Sukhdev Singh

.....Petitioner

Versus

Financial Commissioner(Appeals) Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Munish Gupta, Advocate
for the petitioner.

Mr.Deepak Verma, Advocate
for the Caveator/respondent No.5.

Mr.Rajiv Joshi, Advocate
for the Caveator/respondent No.6.

Mr.Shubhashish Kukreti, Advocate
for the Caveator/respondent No.8.

.....

RAJESH BHARDWAJ, J.(ORAL)

Petitioner has approached this Court praying for issuance of a writ in the nature of certiorari for quashing of order dated 01.09.2023, Annexure P-17, passed by respondent No.1, vide which ROR No.622 of 2019, titled as `Santosh Kaur vs. Sukhdev Singh and others`, ROR No.727 of 2019 titled as `Bhajan Kaur vs Surinder Kaur and others`, and ROR No.202 of 2020 titled as `Surinder Kaur & another vs Sukhdev Singh and others`, have been allowed. It is further prayed to stay the

Learned counsel for the petitioner has submitted that partition proceedings were initiated at the behest of respondent No.5 (Santosh Kaur) in the year 2010. He submits that partition proceedings were carried out in accordance with law and all the co-sharers have availed their remedies as available to them under the law and finally *Sanad Taksim* was issued on 21.11.2014. He submits that after issuance of *Sanad Taksim*, three revision petitions were filed before the learned Financial Commissioner in the year 2019, i.e. after about five years. It is further submitted that learned Financial Commissioner decided all the three revision petitions by a common order, which is impugned in this petition. He has submitted that respondent No.6- Bhajan Kaur purchased the land after the partition proceedings from Mohan Lal vide sale deed dated 13.04.2015. It is submitted that observations made by learned Financial Commissioner are totally keeping in view the grounds taken by Bhajan Kaur, who was subsequent vendee. He submits that impugned order has been passed totally ignoring the facts and circumstances of the case.

Notice of motion.

On asking of the Court, Mr.Navdeep Singh, Sr.DAG, Punjab, who is present in Court, accepts notice on behalf of the official respondents/State whereas Mr.Deepak Verma, Advocate, Mr.Rajiv Joshi, Advocate and Mr.Shubhashish Kukreti, Advocate, who are on Caveat, accept notice on behalf of respondents No.5, 6 and 8 respectively and oppose the submissions made by learned counsel for the petitioner.

However after hearing both the sides, it is apparent that both the parties are ad idem that the impugned order has not been passed in

accordance with the facts and circumstances of the case as the same is based on incorrect facts.

On hearing the parties, it is apparent that partition proceedings were initiated by filing an application by respondent No.5. Though the parties joined the proceedings before the authorities and availed their right of filing the objections, however perusal of the impugned order dated 01.09.2023 passed by the learned Financial Commissioner, shows that it has been observed that the petitioner was never made a party to the partition proceedings, due to which, she could not file objections against mode of partition and nakshas. However, these facts are applicable only to the revision petition filed by Bhajan Kaur numbered as ROR-727-2019, whereas rest of two petitioners duly appeared and had availed their right of filing the objections. It is also pertinent to mention that Bhajan Kaur is the subsequent vendee, who purchased the share of the original co-sharer, namely, Mohan Lal vide sale deed dated 13.04.2015. Thus, Bhajan Kaur stepped into the shoes of original co-sharer Mohan Lal and hence, the observation made by the learned Financial Commissioner would not be applicable to rest of two petitioners in the revision petitions filed before the learned Financial Commissioner. Thus, the impugned order has not been passed keeping in view the facts on record.

Hence, in view of the submissions made by both the parties, the impugned order dated 01.09.2023 is hereby set aside by remanding the case to learned Financial Commissioner for hearing all the parties afresh and pass a fresh order in accordance with law. It is directed that the learned Financial Commissioner would pass a fresh order on hearing both the sides

expeditiously in accordance with law preferably within a period of three months from the date of receipt of copy of this order. Office is directed to send a copy of this order to the learned Financial Commissioner, Punjab, who on receipt of the same will issue notice for appearance to both the parties.

Disposed of in the above terms.

January 09, 2024

meenuss

(RAJESH BHARDWAJ)
JUDGE

- | | | |
|----|-----------------------------|--------|
| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |