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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 12.11.2024

1. CWP-30435-2024 (O/M) (N.C. No. 2024:PHHC:147285)
Jacksin Auto Engineers Petitioner(s)

Versus

Financial Commissioner (Appeals), Punjab and others
..... Respondent(s)

2. CWP-30441-2024 (O/M) (N.C. No. 2024:PHHC:147293)
Jacksin Auto Engineers Petitioner(s)

Versus

Financial Commissioner (Appeals), Punjab and others
..... Respondent(s)

3. CWP-30476-2024 (O/M) (N.C. No. 2024:PHHC:147296)
Jacksin Auto Engineers Petitioner(s)

Versus

Financial Commissioner (Appeals), Punjab and others
..... Respondent(s)

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Chanakya Batta, Advocate
for the petitioner(s).

Mr. Navneet Singh, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. This order shall dispose of aforementioned three writ
petitions (CWP-30435-2024, CWP-30441-2024, CWP-30476-2021) as

similar issues of law and facts are involved therein. For brevity, facts have been taken from CWP-30435-2024.

2. Petitioner (Jacksin Auto Engineers) has 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 quashing of orders dated 24.01.2024 (Annexure P-24), passed by learned Financial Commissioner (Appeals) Punjab (in short 'Financial Commissioner'), orders dated 25.07.2014 and 22.07.2014 (Annexure P-15 and P-16), passed by learned Commissioner, Jalandhar Division, Jalandhar (in short 'Divisional Commissioner'), whereby order dated 25.01.2010 (Annexure P-12), passed by learned Collector, Jalandhar (in short 'Collector') was set aside and the matter was remanded back.

3. Briefly, in the year 2002, the petitioner preferred three separate applications, seeking partition of joint land, comprised in three separate khewats i.e. khewat No. 136, 319 and 320, as per jamabandi for the year 1997-98, situated at village Bachhowal, Tehsil Phillaur, District Jalandhar. The said partition proceedings culminated into passing of final partition order 25.10.2004 (Annexure P-4).

3.1 Respondent No. 6 preferred an appeal against the aforesaid partition order dated 25.10.2004 (Annexure P-4), which came to be allowed by learned Collector, Phillaur, vide order dated 10.06.2005 (Annexure P-6) and the matter was remanded to the Assistant Collector 1st Grade, Phillaur for fresh decision.

3.2 It transpires that thereafter, mode of partition was proposed

on 28.11.2007, which reads as under :-

- 1) *Total land within partition, leaving uncultivable, the rest of the undivided agricultural land would be partitioned.*
- 2) *The partition would be done by keeping possession intact. The kurra of first party would be made at one place. Gian Singh – Kuldeep Singh second party and Surjeet Singh Second party, the possessions of these parties would be made separately and other parties possession would also be prepared. Good out of good and bad out of bad land would be given. Out of both portions, land would be given as per share.*
- 3) *A shortage of 2 marla would be ignored.*
- 4) *As per requirement, aar cha would be made.*
- 5) *Trees would be kept within land.*
- 6) *In case, any of the parties, has sold/leased its land to anybody then, would be completed from its share.*
- 7) *Area Patwari would prepare documents under supervision of Field Kanungo.”*

3.3 The said proposed mode of partition came to be affirmed on 07.01.2008 with the modification that the last line in Clause No. 2 of the proposed mode of partition was directed to be deleted i.e. ***land should be allotted in both the blocks as per share*** (as per vernacular copy).

3.4 Accordingly, the field staff was directed to prepare partition papers and ultimately the final order of partition was passed on 31.03.2009 (Annexure P-10).

3.5 It appears that the present petitioner challenged the aforesaid partition order dated 31.03.2009 by preferring an appeal before learned Collector, Phillaur, which was allowed, vide order dated 25.01.2010 (Annexure P-12) and the matter was remanded to learned Assistant

Collector with the direction that the partition be done by keeping the possession intact i.e. the petitioner herein be allocated land in one block as per its share.

3.6 Thereafter, respondents No. 4 and 5 herein challenged the order dated 25.01.2010 by filing an appeal before learned Commissioner, Jalandhar Division, Jalandhar (in short 'Divisional Commissioner'). Similarly, respondent No. 6-Surjit Singh also challenged the order dated 25.01.2010 by filing a separate appeal before learned Divisional Commissioner.

3.7 The appeal filed by respondents No. 4 and 5 came to be allowed, vide order dated 22.07.2014 (Annexure P-16), whereas the appeal filed by respondent No. 6 came to be allowed, vide order dated 25.07.2014 (Annexure P-15). Vide both the afore-said orders (Annexures P-15 and P-16), the matter was remanded to the Assistant Collector, Phillaur, by observing as under :-

“5. I have considered the arguments put forth by the counsel for the parties and have also carefully examined the record. Civil Courts as well as Revenue Courts have repeatedly held that it is a fundamental principle of fair and equitable partition that all the co-sharers should get good land out of good and bad land out of bad as per share in the joint holdings. Possession has to be respected but not at the cost of most valuable land. I find substance in the arguments of the counsel for the appellant that the remand order with the direction to allot land to respondent No. 1 in one Tuk, has caused prejudice to the rights of the appellant. Consequently, I accept the present appeal, set aside the impugned order of the learned Collector, Phillaur, and remand the case to the A.C. 1st Grade, Phillaur, who should

proceed further in the case in accordance with law after affording due opportunity of hearing to both the parties. The A.C. 1st Grade, Phillaur, should decide the case on remand within three months of the receipt of the copy of this order. Parties may appear before the A.C. 1st Grade, Phillaur, accordingly. Announced.”

3.8 It transpires that present petitioner challenged the order dated 25.07.2014 (Annexure P-15) and order dated 22.07.2014 (Annexure P-16) by preferring revision petitions (ROR-199-2016 and ROR-200-2016) before learned Financial Commissioner, Punjab.

3.9 During the pendency of the aforesaid revision petitions (ROR-199-2016 and ROR-200-2016) before the learned Financial Commissioner, learned Assistant Collector, Phillaur, in compliance of the remand order passed the final order of partition dated 20.04.2016 (Annexure P-19).

3.10 The said order dated 20.04.2016 (Annexure P-19) was again challenged by respondent No. 6-Surjit Singh by filing an appeal before learned Collector. The learned Collector allowed the appeal, vide order dated 14.03.2017 (Annexure P-21) and remanded the case back to the Assistant Collector for passing the partition order in consonance with the order dated 25.07.2014 (Annexure P-15), passed by learned Divisional Commissioner.

3.11 Thereafter, the present petitioner preferred a revision petition (ROR-564-2017), challenging the order dated 14.03.2017 (Annexure P-21).

3.12 It appears that during the pendency of aforesaid revision petitions (ROR-199-2016, ROR-200-2016 and ROR-564-2017), the Assistant Collector passed fresh partition order dated 29.01.2018 (Annexure P-22).

3.13 The petitioner challenged the order dated 29.01.2018 (Annexure P-22) by filing an appeal before the learned Collector, Phillaur. However, in the meanwhile, learned Financial Commissioner, vide a common order dated 24.01.2024 (Annexure P-24), dismissed all the aforesaid three revision petitions (ROR-199-2016, ROR-200-2016 and ROR-564-2017).

4. In the aforementioned circumstances, the petitioner(s) has/have filed the present civil writ petition(s) for the relief(s), as noticed above.

5. I have heard learned counsel for the petitioner and have also perused the paperbook(s) with his able assistance.

6. Learned counsel for petitioner, while referring to site plan (Annexure P-25) has raised only one objection that in the partition proceedings, the possession of the petitioner over land comprised in khasra No. 33//15/2, 16; 32//11/1/2 and 20/3 (as depicted in green colour in the site plan-Annexure P-25) has been disturbed.

6.1 However, on a specific query, learned counsel for petitioner has failed to refer to any material/document to indicate that the petitioner was in actual possession of the above referred khasra numbers and in the absence of the same, I do not find any force in the aforesaid contention raised on behalf of the petitioner.

6.2 It is noticeable that as per the mode of partition, the partition was to be carried out as per the nature/value of the land i.e. good out of good land and bad out of bad land was to be given to the respective co-sharers. It is further borne out that the land under partition is comprised in two separate parcels of land. A perusal of site plan (Annexure P-25) would show that the entire block of land of the petitioner (shown in orange colour) is falling on the main passage (shown in pink colour) and only a small portion of land block has been carved out for private respondents with very little frontage on main passage. In my considered view, the respective co-sharers have been allocated land in both the land parcels as per their shares.

6.3 As regards second block of joint land under partition falling in Rect. No. 14, learned counsel for petitioners has not raised any objection.

7. In view of the aforementioned facts and circumstances, I do not find any merit in the present civil writ petition and the same is accordingly dismissed.

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

9. Photocopy of this order be placed on connected case files.

(HARSH BUNGER)
JUDGE

12.11.2024
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No