
(2011) 07 P&H CK 0074
In the Punjab And Haryana At Chandigarh
Case No : R.O.R. 186 of 2007 to 08

Bhuri Widow

APPELLANT

Vs

Girdhari

RESPONDENT

Date of Decision : 21-07-2011

Acts Referred:

Punjab Land Revenue Act, 1887 — Section 16

Citation : (2011) 07 P&H CK 0074

Hon'ble Judges : R.R. Fuliya, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

R.R. Fuliya, IAS

1. This Revision Petition has been filed u/s 16 of the Punjab Land Revenue Act, 1887 against the order dated 22.10.2007 passed by Learned Commissioner, Hisar Division by which he dismissed the appeal filed by the Petitioner against order dated 25.07.2003 passed by Collector, Sirsa vide which order dated 03.09.2002 passed by Assistant Collector 1st Grade, Sirsa was set aside and case was remanded back to him for a fresh decision.

2. Brief facts of the case are that Petitioners filed an application on 13.10.1999 for partition of land measuring 81 Kanals 10 Marias situated in village Khireka, District Sirsa before Assistant Collector 1st Grade, Sirsa. Respondents raised objections that they should be given passage to their land and compensation for improvement made by them on the partitioned land. Their objections were dismissed and Assistant Collector 1st Grade, Sirsa passed an order of final partition on 03.09.2002 after hearing the parties. Respondents filed an Appeal before Collector, Sirsa challenging this order on the ground that their objections were not heard by Assistant Collector 1st Grade, Sirsa. This Appeal was accepted and vide order dated 25.07.2003, case was remanded back to Assistant Collector 1st Grade for passing a fresh order. Against this order Petitioners filed Appeal

before the Learned Commissioner, Hisar Division, which was dismissed filed Appeal before the Learned Commissioner, Hisar Division, which was dismissed vide order dated 22.10.2007. Hence, this Revision Petition.

3. Written arguments have been submitted in this case. It has been argued on behalf of the Petitioners that Collector, Sirsa has wrongly and illegally set aside the well reasoned judgement dated 03.09.2002 passed by Assistant Collector 1st Grade, Sirsa. Collector, Sirsa has not passed a speaking order on merits and has only mentioned that objections of the Respondents have not been considered fully. No evidence was produced by the Respondents for claiming compensation for the amount allegedly spent by them on the improvement of land. They have neither produced any receipt nor any witness to support their claim for the improvements made. In this situation, there was no justification to reopen the case merely on the ground that Court below has not properly appreciated the objections of the Respondents. A reading of the concluding para of the Collector's order dated 03.09.2002 shows that it is not a speaking order and the same has been written without application of judicious mind. It has been further argued that it is a settled law that no improvement can be claimed in absence of any documentary or oral evidence which is completely absent in the present case. Respondents wish to prolong the partition proceedings because they are in possession of the excess land. The remand order passed by Collector, Sirsa is against the provisions of Punjab Land Revenue Act, 1887. It is also unsustainable in the eyes of law as it has not been passed keeping in view the law laid by the Hon"ble High Court of Punjab and Haryana as well as the Hon"ble Supreme Court of India In this regard. It has been prayed on behalf of the Petitioners that the Revision Petition may be accepted and impugned order dated 27.10.2007 and 25.07.2003 passed by the Lower Revenue Courts may be set aside and the order dated 03.09.2002 passed by Assistant Collector 1st Grade, Sirsa be restored.

4. It has been argued on behalf of the Respondent No. 3 to 11 that the order passed by Learned Commissioner, Hisar Division and Collector, Sirsa are perfectly legal as the order passed by Assistant Collector 1st Grade, Sirsa was against law and facts. Collector, Sirsa has rightly remanded the case for a fresh decision because Assistant Collector 1st Grade, Sirsa had failed to consider the objections of the Respondents on Naksha "Bai". He has committed grave error in dismissing the objections raised by the Respondents. Respondents had raised objections that they had incurred huge amount in making the land cultivable and due compensation should be awarded to them for the same. Likewise, Respondents have not been provided passage to the land falling to their share. However, Assistant Collector dismissed the objections in an arbitrary manner and passed a non-speaking order. The same order has been rightly set aside by Collector, Sirsa in Appeal. It has been prayed on behalf of the Respondents that the present Revision Petition which is without any merit be dismissed and orders of Learned Commissioner, Hisar Division dated 22.10.2007 and Collector, Sirsa dated 25.07.2003, be upheld.

5. I have considered the contentions raised by the Learned Counsel for the parties and have also gone through the record. A reading of the order passed by Collector, Sirsa shows that the case has been remanded on the ground that objections raised by the Respondents have not been considered fully. A reading of the petitions filed before this Court and the Lower Revenue Courts show that the major objection raised by the Respondents has been that they should be allowed compensation for the improvements made by them on the land under partition. One more objection raised relates to not providing passage to the land which has been given to them in partition. The order of Collector, Sirsa does not elaborate upon the defects in the orders passed by the Assistant Collector 2nd Grade, Sirsa. His order is not a speaking order. Though, it has been written by him that objection regarding compensation for improvements made on the land has not been considered. yet he has failed to explain about their lack of producing any documentary or oral evidence in this regard which find mention in the order of Assistant Collector 2nd Grade. He has also failed to show what evidence, if any, has been produced by Respondents in support of this major objection. Same situation exists in case of the order passed by Learned Commissioner, Hisar Division. I have called for and gone through the record in this case which shows that the objections raised by the Respondents are not based on facts. Necessary passage has been given to them. Assistant Collector 2nd Grade has rightly rejected their objection regarding payment of compensation for improvements made on the land as they had failed to produce the necessary supporting evidence. Respondents have not been able to show any other defect in the partition proceedings which proves that the action taken by Assistant Collector 2nd Grade, is in order, and is based on law and facts in this case. Accordingly, the order dated 03.09.2002 passed by Assistant Collector 2nd Grade is upheld, and order dated 25.07.2003 passed by Collector, Sirsa and order 22.10.2007 passed by Learned Commissioner, Hisar Division, are set asides. Finding merits in the Revision Petition, the same is accepted. As the judgement in this case was reserved, it may be communicated to the parties.