
(2013) 08 P&H CK 0895
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 10253 of 2011

Gurmej Singh and Others

APPELLANT

Vs

Financial Commissioner (Appeals-II) and Others

RESPONDENT

Date of Decision : 21-08-2013

Acts Referred:

Punjab Land Revenue Act, 1967 — Section 111

Citation : (2014) 173 PLR 543

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Advocate : Paramjit Rajput and Mr. Deepak Balian, A.A.G. Punjab, for the Appellant; Sandeep Arora, for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J.—Petitioners have challenged orders passed by A.C. Ist Grade dated 14.3.2007, Collector dated 12.9.2008 and Financial Commissioner dated 6.10.2010; and have further prayed for restoration of the order passed by the Divisional Commissioner dated 3.11.2008. In brief, the petitioners and respondent No. 5 are the real brothers being the sons of Santa Singh. On 1.9.2006, respondent No. 5 filed an application u/s 111 of the Punjab Land Revenue Act, 1887 (for short "the Act") for partition of land measuring 81 Kanals 15 Marlas situated in Village Ghot Kalan, Hadbast No. 558, Tehsil and District Gurdaspur, as shown in the jamabandi for the year 2004-2005. During the pendency of this application, on 10.1.2007, the petitioners also filed an application for partition of land situated in Village Bhattian, Hadbast No. 559, District Gurdaspur titled as Dalip Singh Vs. Shangara Singh etc. on 10.1.2007. The A.C. Ist Grade, approved Naksha "ARRA" for partition of land pertaining to Village Ghot Kalan vide his order dated 14.3.2008 and directed respondent No. 5 to get the Instrument of Partition prepared on a Stamp paper of Rs. 50/- after the expiry of time to file appeal.

2. The petitioners challenged the order of the AC Ist Grade, by way of statutory

appeal, in which it has been argued that the petitioners had filed an application dated 25.1.2008 before the AC Ist Grade for consolidating/clubbing of both the partition applications of Village Ghot Kalan and Village Bhattian but no order has been passed by him in this regard. The Collector, vide his order dated 12.9.2008 dismissed the appeal while rejecting the argument of the petitioners with regard to clubbing of the two partition applications of Village Ghot Kalan and Village Bhattian, on the ground that there were different co-sharers in the said Khewat and thus, the applications cannot be clubbed together.

3. Still aggrieved, the petitioners preferred revision petition before the Divisional Commissioner, which has been allowed vide his order dated 3.11.2008 and the case was remanded back to the AC Ist Grade for deciding the applications filed by both the petitioners and respondent No. 5 in respect of their joint holding in Village Ghot Kalan and Village Bhattain.

4. Since, respondent No. 5 was aggrieved against the order of the Divisional Commissioner, he preferred appeal before the Financial Commissioner which has been allowed on 6.10.2010 on the ground that the prayer for clubbing the land of separate Khewats in both the Villages has rightly been declined as the co-shares in both the partition applications are different.

5. Learned counsel for the petitioners has only argued with regard to clubbing of the partition applications and has submitted that both the applications filed by the petitioners and respondent No. 5, who happened to be the real brothers, should have been clubbed by the AC Ist Grade and decided simultaneously. The logic given by learned counsel for the petitioners in this regard is that the clubbing of the applications is required to avoid fragmentation of holding.

6. I have heard learned counsel for the parties and perused the record.

7. Although, counsel for the petitioners has failed to refer to any provision in the Act, which provides for clubbing of the partition applications yet, the clubbing is being ordered by the revenue authorities in certain cases where parties to the partition applications are same so that in the event of partition/separation of Khewats, the parties may get the consolidated chunk of land at a particular place and may not have to face the difficulties of having land spread over at various places.

8. However, in the present case, the question involved is "as to whether in a case where parties to the partition are real brothers and are having land in two separate villages, having different Hadbast numbers and have filed separate applications for partition with regard to land falling in separate revenue estates, can maintain an application before the AC Ist Grade, for the purpose of clubbing the partition applications pertaining to two separate revenue estates"?

9. If the logic given by counsel for the petitioners is to be considered objectively, he appears to be correct if the land in question is a part and parcel of the one revenue estate then in order to avoid fragmentation of the holding of the same

parties, all the applications can be clubbed together for allotting the parties, a particular Khewat and the entire land at a particular place but where the land is situated in different revenue estates, the application for clubbing of partition application is not maintainable because in that circumstance, there would not be any fragmentation of holding as separate khewat would be prepared in separate revenue estates.

10. Thus, in my considered opinion, the arguments raised by learned counsel for the petitioners for clubbing of the partition applications filed by the real brothers pertaining to two separate revenue estates is not maintainable as it would not cause fragmentation of holding as suggested by him.

11. No other point has been raised. In view of the aforesaid discussion, I do not find any merit in the present writ petition. Hence, the same is hereby dismissed.