
(2010) 11 P&H CK 0192
In the Punjab And Haryana At Chandigarh
Case No : L.P.A. No. 529 of 2010 (O and M)

Mohinder Singh and Others	Vs	APPELLANT
Financial Commissioner (Venue), Punjab and Others		RESPONDENT

Date of Decision : 22-11-2010

Acts Referred:

Citation : (2011) 1 RCR(Civil) 11

Hon'ble Judges : Jasbir Singh, J;Augustine George Masih, J

Bench : Division Bench

Judgement

Jasbir Singh, J.—This appeal has been filed against an order passed by the learned Single Judge on 28.04.2009 dismissing CWP No. 6353 of 2009 filed by the Appellants.

2. Dispute herein pertains to correction of Khasra Girdawari with regard to 3 Kanals of land, which was the ownership of numerous right holders.

3. An application was moved for correction of Khasra Girdawari, in their name by some of the Respondents before the Assistant Collector, 2nd Grade, who, after site inspection, dismissed their application. The Respondents went in appeal, which was accepted by the Collector vide order dated 27.02.2001. To reverse an order passed by the Assistant Collector 2nd Grade, reliance was placed upon photostat copies of the documents showing that some portion of the land was mortgaged in favour of Sadhu and Beeru sons of Mansa, who are the predecessors-in-interest of the private Respondents and entry to that extent was also available in the revenue record (jamabandi).

4. The Appellants went before the Commissioner by filing an appeal, which was allowed without making any reference to the documents, on the basis of which mortgage was claimed by the private Respondents. The Financial Commissioner looked into the entire matter and allowed the revision petition filed by the private Respondents by observing as under:

I have given thoughtful consideration to the arguments propounded by both the counsel, as well as orders of the lower courts. The only reason for accepting the appeal of the present Respondent by Commissioner was that due weight-age is required to be given to the spot inspection and further the statement of Sarpanch is to be relied upon. But the Commissioner has to-tally ignored the point regarding mortgage of the land in dispute. Neither the counsel for the Respondent rebutted the contention of the counsel for the Petitioner that it was in fact the Respondent Sheru etc. who mortgaged their land with the Petitioner for more than 30 years ago. The Collector in his order dated 27.2.01 has appreciated this point elaborately. Though, the spot inspection is very important to see the actual possession of the parties, for the purpose of correction of Khasra girdawari, it is also required to be seen as to how the particular party person has come into possession of the disputed land. But this point has not been kept in view by the A.C. II while passing the impugned order. I, therefore, accept the present revision petition and set aside the order dated 9.12.02 of Commissioner and upheld the order dated 27.2.01 of Collector.

5. The Appellants filed CWP No. 6353 of 2009, which was dismissed vide the impugned order by the learned Single Judge by observing as under:

The primary grievance raised by the counsel for the Petitioner is that after setting aside the order of Commissioner, the Financial Commissioner should have remanded the case back for verification of the fact. I am not impressed with this argument as the facts, on the basis of which the Financial Commissioner interfered in the order, were well apparent from the record and the mortgage which was entered into 30 years ago. No case for interference in the impugned order, as such, is made out.

6. We feel that the order passed is perfectly justified. The matter pertains to correction of Khasra Girdawari for a piece of 3 Kanals of land, which is the ownership of many right holders. The Appellants cannot claim exclusive possession of the same. Further more, it has rightly been held by the Financial Commissioner that on the basis of mortgage in favour of predecessors-in-interest of some of the Respondents, their possession is proved. Possession of the Respondents is also shown in the Jamabandis.

Only one solitary entry has appeared in favour of the Appellants, which cannot be relied upon, as per law.

No ground for interference by this Court is made out.

Dismissed.

In view of dismissal of main appeal, CM. No. 1498 of 2010 for condonation of delay has become in-fructuous.