

(2013) 11 P&H CK 0090
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 12217 of 2011

Mohinder Singh and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 20-11-2013

Acts Referred:

Citation : (2013) 11 P&H CK 0090

Hon'ble Judges : Rakesh Kumar Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rakesh Kumar Jain, J.—Pal Singh and Bikkar Singh filed application for partition of their joint holding on 27.05.1996 before the Assistant Collector 1st Grade, Phillaur. He passed the final order of partition on 31.08.1998. His order challenged in appeal before the Collector-cum-SDM, Phillaur, was maintained because the appeal was dismissed on 31.10.1998. Pal Singh and Bikkar Singh filed revision before the Commissioner, Jalandhar Division, Jalandhar, which was ultimately accepted on 14.09.1999 and the matter was remanded back to the Collector-cum-SDM, Phillaur with the direction to visit the spot and decide it again. The Collector, after visiting the spot on 11.12.1999, ordered that Pal Singh and Bikar Singh deserve more land abutting the road and vide his order dated 22.12.1999 directed the Assistant Collector 1st Grade, Phillaur to give more area on the front to the respondents as per order dated 14.09.1999 passed by the Divisional Commissioner. The Assistant Collector 1st Grade, Phillaur, filed the case on 26.04.2002 on the ground that since the order of partition has been implemented and entered in the jamabandi for the year 1998-99, therefore, the parties may approach the Civil Court. The said order was challenged by the respondents by way of appeal before the Collector which was allowed on 28.02.2011 with the direction to the Assistant Collector 1st Grade to partition the land keeping in view the directions issued by the Commissioner, Jalandhar Division, Jalandhar in his order dated 14.09.1999. Against the said order dated

28.02.2011, appeal was filed before the Divisional Commissioner again, which has been dismissed vide the impugned order dated 16.05.2011. The Divisional Commissioner, while passing the impugned order, observed as under:- I have considered the arguments put forth by both the parties and have also perused the record presented to me. The Collector cum SDM Phillaur in his order dated 28.02.2011 has clearly mentioned that he visited the spot on 06.02.2011 and found that although in the Jamabandi after implementing the order of A.C. 1st Grade dated 31.08.1998, separate khatas have been formed, but the parties are not in their respective possession at the spot. So, keeping in view the natural justice, he accepted the appeal and directed the A.C. 1st Grade Phillaur to partition the land keeping in view the directions given in the order dated 14.9.1999 passed by my predecessor and order dated 22.12.1999 passed by the Collector cum SDM Phillaur. The respondents prima facie have been put to disadvantage by giving them disproportionate share abutting the road. Thus, the order of the Collector cum SDM is in term with natural justice. This court does not need to interfere in the concurrent findings of the Collector cum SDM Phillaur. The Collector cum SDM Phillaur has rightly accepted the appeal and directed the A.C. 1st Grade to act in accordance with the order dated 14.09.1999 passed by the Commissioner, Jalandhar Division, Jalandhar and the Collector cum SDM, Phillaur dated 22.12.1999. In these circumstances the appeal is dismissed in limine and parties are directed to appear before A.C. 1st Grade Phillaur on 30.05.2011 for further proceedings.

After hearing learned counsel for the parties and examining the record, I have found that the petitioner could have challenged order dated 14.9.1999 passed by the Divisional Commissioner, who had remanded the case back to the Collector-cum-SDM, Phillaur to decide it again but the said order was never challenged on the basis of which the Collector visited the spot and ordered that Pal Singh and Bikkar Singh deserve more land abutting the road and directed AC 1st Grade to give them more area on the front.

2. In view thereof, the impugned order dated 16.5.2011 has rightly been passed and does not call for any interference by this Court in this writ petition.

Dismissed.