

(2018) 10 P&H CK 0302

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Miscellaneous No. No. 22204CII2018 in Civil Revision No. 3904 Of 2018

Raj Kumari

APPELLANT

Vs

Madan Singh And Ors

RESPONDENT

Date of Decision: Oct. 16, 2018

Acts Referred:

- Punjab Land Revenue, Act, 1887 - Section 158(2)(xvii), 158(1)
- Code of Civil Procedure, 1908 - Order 39 Rule 1, Order 39 Rule 2

Hon'ble Judges: Amol Rattan Singh, J

Bench: Single Bench

Advocate: Neeraj Jain, Jagmohan Ghumman

Final Decision: Dismissed

Judgement

Amol Rattan Singh, J.

Vide a detailed order dated 30.07.2018, this Court had directed learned counsel for the petitioner to place on record the Jamabandi and the Khasra

Girdawari in respect of the suit land, as it existed immediately prior to the filing of the suit, that order is now sought to be complied with vide an

application filed, i.e. CM No. 22204-CII-2018, to the extent that a copy of the Jamabandi for the year 2005-06, pertaining to the revenue estate of

village Bhondsi, Tehsil Sohna, is sought to be placed on record, along with a site plan.

Upon query to learned counsel as to whether, against the order of the Assistant Collector, partitioning the suit property (allegedly without notice having

been issued to the petitioner), any appeal had been filed before the appropriate revenue authority, he has produced in Court today an order dated

21.09.2018, passed by the Commissioner, Gurugram Division, by which, upon an appeal filed by the petitioner against the respondents, the matter has been remanded to the Assistant Collector, Ist Grade, Sohna, with a direction that fresh orders on the application for partition of the suit property be passed, after hearing both sides.

That being so, I do not see any infirmity in any case in the impugned order, by which it has been held that the Civil Court has no jurisdiction over the matter, partition being subject matter only of the competent revenue authority, (in terms of Section 158 (2) (xvii) of the Punjab Land Revenue, Act, 1887).

The said provision reproduced hereinunder:-

158. Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers: -Except as otherwise provided by this Act-

xxxx

(2) a Civil Court shall not exercise jurisdiction over any of the following matters, namely: -

xxxx

(xvii) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of, proceedings for partition, not

being a question as to title in any of the property of which partition is sought;

xxxx

Thus, even the appeal filed by the petitioner-plaintiff against dismissal of her application under Order 39 Rules 1 and 2 CPC by the trial Court, the

learned Additional District Judge, has been dismissed, holding that the Civil Court does not have jurisdiction, with the suit for partition itself not being

maintainable before that Court.

Learned counsel, on query, could not deny that the suit land is agricultural land and therefore the land that would fall within the purview of the

jurisdiction conferred by the aforesaid Act upon the State Government/Revenue -officers, in terms of sub-section 1 of Section 158 of the Act.

Hence, I see absolutely no reason to interfere in the aforesaid orders.

Consequently, this petition is dismissed in limine.

However, while dismissing this petition, it is to be clarified that no observation made by the learned courts below, or this Court, as regards the merits of the case (including the observations of the trial Court), shall be taken into consideration by the competent revenue authority while deciding the case of the petitioner for partition, on merits.