

Latest HLJ 2025 (HP)(1) 270

Before Shri Kamlesh Kumar Pant, I.A.S Financial Commissioner

Himachal Pradesh, Shimla.

Revision Petition No.57/2024

Himachal Pradesh Land Revenue Act, 1954 Section–21–Proper service–Partition proceedings–principles of natural justice–As per petitioner a Civil suit concerning the title of the disputed land is pending before the Civil Court–Whether there is irregularity or illegality in the partition process–Held–No–As per records, which showed proper service in accordance with Section 21 of the Act–

Further held–That, there was no specific order from the Civil court staying the partition proceedings, and the partition proceedings could lawfully proceed–Failed to establish any substantive illegality– Petition dismissed. (Para 4)

Parties represented by:

For the Petitioners: Mr. Amit Singh Chandel, Advocate. For the Respondents: Mr. Vikrant Chandel, Advocate for R-1 and Mr. Janak Raj, Advocate for proforma respondents No.2&3.

Order: This revision petition has been preferred under Section 17 of the Himachal Pradesh Land Revenue Act, 1954 (hereinafter referred to as ‘the Act’) against the order dated 14.12.2023 passed by the Ld. Sub-Divisional Collector, District Bilaspur, H.P. (hereinafter referred to as ‘the Collector’) has dismissed the appeal of the present petitioner by upholding the order dated 23.09.2019, passed by the Assistant Collector, 1st Grade, Ghumarwin, District Bilaspur in partition Missal No.21/2009 titled as Smt. Durgi Devi Vs. Smt. Prisino Devi & Ors.

2. This case came up for hearing on admission on 5.11.2024, when after hearing the Ld. Counsels for the parties, the same was reserved for orders. The Ld. Counsel for the petitioners, while reiterating the grounds of revision petition, argued that the partition of land comprised in Khata/Khatauni No.9/12 min, Khasra No.66, area measuring 19-2 bighas, situated in Village Kalyana, Tehsil Ghumarwin, District Bilaspur, has been carried out by the AC 1st Grade, in connivance with the respondent illegally without summoning the petitioners and the proforma respondents. He alleged that no reasonable opportunity of being heard has been provided to the petitioners and the proforma respondents and as such the order dated 22.4.2017, 16.05.2017 and order dated 23.09.2019 are in violation of principle of natural justice. He further argued that all these grounds were raised by the petitioner before the Ld. Collector in appeal. But the Ld. Collector has dismissed the appeal, vide impugned order dated 14.12.2024, without appreciating the facts of the case. He further argued that question of title is involved in the land in dispute and the present petitioner has filed a civil suit for declaration of title before the Ld. Sr. Civil Judge, Ghumarwin, District Bilaspur, which is pending adjudication. He further argued that the petitioner had also filed an application under Order 39 Rule 4 CPC before the Ld. Civil Court, but the same was dismissed vide order dated 18.11.2023, and the present petitioner has challenged the said order before the District Judge, Bilaspur, who vide order dated 20.12.2023

has dictated the parties to maintain status quo. The Ld. Counsel further contended that since question of title is involved in the matter, the land in dispute cannot be partitioned until the question of title is determined and decided by the competent court of jurisdiction. He further asserted that a civil suit is pending adjudication before the parties in the Civil Court. Lastly, the Ld. Counsel for the petitioners argued that the Courts below have committed serious illegalities while adjudicating upon the matter and urged that the orders of the Courts below may be set aside by accepting the present revision petition.

3. In reply, the Ld. Counsel for the respondent No.1 (contesting respondent), argued that the AC 1st Grade had issued notices to all the parties to the parties and the petitioner were duly associated by the AC 1st Grade in partition

proceedings. He further argued that the present petitioners are dragging the contesting respondent in unnecessarily prolonged litigation. He further alleged that the petitioners are filing repeated cases against the contesting respondent on baseless grounds, just to harass him. He further argued that the Ld. Collector has already held that the present petitioners are filing baseless cases against the contesting respondents. He further argued that the civil court has not stayed the partition proceeding. He contended that the Ld. Collector has passed a very detailed and well reasoned order, which requires no interference by invoking revisional jurisdiction under Section 17 of the Act. He urged that the present revision petition may be dismissed by imposing exemplary cost.

4. I have considered the arguments put forth on behalf of contesting parties and have gone through the record of the courts below, which was called before admission. Main contention of the petitioner is that the partition has been carried out without providing opportunity of being heard to them. From perusal of the file of AC 1st Grade, it is clear that on the application dated 29.01.2009, moved by Smt. Durga Devi, Smt. Soma Devi, Smt. Jasmati Devi, Smt. Gomati Devi and Smt. Rameshwari Devi, seeking partition of land bearing Khata/Khatauni No.9/12 min, Khasra No.66, area measuring 19.1 bighas, situated in Village Kalyana, Pargna Tiun, Tehsil Ghumarwin, District Bilaspur, the AC 1st Grade proceeded to partition the land. The record shows that the present petitioner No.1 & 3 were served in person for 16.10.2015. Petitioner No.2, Sh. Satish Kumar was served in person for 18.01.2016, therefore the claim of the petitioners that no summons were issued to them is contrary to the factual position on record and as such the same is not acceptable in the eyes of law and thus, rejected. Further, since the petitioners were served as per provisions of Section 21 of the Act, it cannot be said that they were not aware about the partition proceedings. Further, it is clear from the zimni order dated 22.04.2017, 16.05.2017 and 23.09.2019 that the Counsel for the present petitioners No.1 and No.2, were present before the AC 1st Grade on those dates and as such the petitioner cannot claim that the aforesaid orders are against the principle of natural justice. Further, so far as the claim of the petitioner qua question of title is concerned, through the petitioners have claimed that they have challenged the sale deed before the Civil Court, but, there is no specific stay on partition of the land from the Civil Court. Moreover, the Ld. Collector has passed a very detailed and well reasoned order on 14.12.2023, while dismissing the appeal (Case No.55/2 of 2019) of the present petitioners. The present petitioners have failed to point out and substantiate any specific illegality or irregularity in the said order of the Ld. Collector.

5. Keeping in view the observations made here in above, I find no reason to interfere with the

order dated 14.12.2023, passed by the Ld. Collector in Case No.55/2 of 2019, and as such the same is hereby upheld. According, the present petition is dismissed, being devoid of any merit. Miscellaneous application(s), if any, pending also stands disposed off.

6. Since, the matter was reserved for orders after hearing on 05.11.2024, this order be communicated to the Ld. Counsel for the petitioners. Record of the Courts below be returned, immediately, and this file consigned to record room after due completion.