

THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, C.J.

Justice Amin-ud-Din Khan

Justice Athar Minallah

Civil Petition No.946 of 2022

(Against the order dated 21.12.2021 of the Lahore High Court, Rawalpindi Bench passed in Writ Petition No.1325 of 2016)

Syed Ghazanfar Ali Shah

...Petitioners

Versus

Hassan Bokhari and others

...Respondents

For the petitioners: Mr. Amjad Raza Bhatti, ASC with Syed Zeeshan Haider, son of the petitioner No.1

For the respondents: Not represented.

Date of hearing: 13.11.2023

ORDER

Qazi Faez Isa, CJ. Learned counsel states that the respondents, who are one hundred and twelve in number, had submitted an application under section 135 of the Punjab Land Revenue Act, 1967 seeking partitioning of certain lands. The application was objected to by the petitioners, who are two in number. The matter eventually came up before the Member, Board of Revenue, who disposed of the same by consent. However, the petitioners assailed the consent order by filing a writ petition before the High Court. The learned Judge of the High Court reproduced the earlier consent and dismissed the writ petition and held that, *'the petition at the face of it is not only frivolous but vexatious and is dismissed in limine with costs of Rs.50,000/-, which shall be deposited with the Deputy Registrar (Judicial) of this Court within thirty days, failing which the same shall be recovered from the petitioners as arrears of land revenue in accordance with law.'* We inquired whether the costs which were imposed had been paid or recovered, and are informed that the costs were neither paid nor recovered. The impugned order of the High Court is dated 21 December 2021 and thus, such an anomaly is surprising. The office shall have pointed this out and noted it.

2. We enquired from the learned counsel why partition is being objected to and he stated that the petitioners are in possession of land and their rights will be adversely effected. This is not a valid ground to oppose partition. Moreover, the petitioners had challenged a consent order, which was upheld by the High Court. The respondents had

submitted a simple application for partition, which they were entitled under the law, but which for no discernable reason has been resisted by the petitioners. This has resulted in unnecessary litigation and wastage of time. The petitioners, it seems, want to procrastinate matters and by acting most unreasonably have managed to stretch out a simple matter for almost 14 years. The petitioners must be influential and do not want the less fortunate overwhelming majority to obtain their rights pursuant to the partition.

3. The fact that revenue authorities have still not attended to the respondents' application and have disregarded the order of the Member, Board of Revenue, indicates the influence they wield, including over the revenue officers of the area, who have also paid no heed to the order of the learned Judge of the High Court. They also did not bother to recover the amount of fifty thousand rupees that they had been directed to do in the impugned judgment. Such disobedience and disdain by the revenue officers who are paid out of the public exchequer undermines the rule of law.

4. No illegality has been pointed out in the impugned order to justify the grant of leave, which is accordingly declined with costs in the sum of one million rupees; such costs are in addition to the costs imposed by the learned Judge of the High Court. The costs shall be deposited with the concerned revenue officer and shall be equally distributed/paid to the respondents, and if not deposited within 30 days, shall be recovered as areas of land revenue from the petitioners. The concerned revenue officers are also directed to implement the order of the Member, Board of Revenue in accordance with the law. Copy of this order be sent to the Senior Member, Board of Revenue, Government of Punjab and to the senior most revenue officer of the concerned district, who shall proceed as directed.

5. The petition stands dismissed in the foregoing terms.

Chief Justice

Judge

Judge

Islamabad

3.11.2023

M. Azhar Malik/*

Approved for reporting.