

Date of hearing: 30.11.2010.

Judgment

The petitioner has assailed the impugned orders dated 20.3.2010, 18.11.2009, 25.4.2006 passed by Member Board of Revenue, Punjab, Lahore, in review petition, ROR and in revision petition decided by Executive District Officer (Revenue) Faisalabad, respectively.

2. Learned counsel for the petitioner contends that the petitioner was in possession of land in dispute to the extent of his share. The E.D.O (R) illegally on the frivolous grounds transferred the land which was in possession of the petitioner since long and whole wanda of the petitioner has been given to Respondents No. 5 to 10 which is against the Masawada Partition. Respondents No. 5 to 14 have not impleaded all the share holders while filing application for partition in the Court of Assistant Collector Ist Grade. The Assistant Collector Ist Grade/tehsildar and other lower Courts have not taken into consideration this aspect of the case. Hence impugned orders are liable to be set aside on this ground alone. The Assistant Collector Ist Grade/Tehsildar vide his orders dated 12.8.1997 and 28.6.2001 appointed the Commission to assess the exact situation on the spot who has reported that there are houses and constructed Pacca Buildings on the land in dispute. Even then the Assistant Collector Ist Grade proceeded to partition the land which is not within the jurisdiction of Assistant Collector Ist Grade. Therefore, writ petition be allowed, impugned orders be set aside.

3. Conversely, learned counsel for the respondent has vehemently opposed this writ petition and contends that there are concurrent findings of three Courts below which could not be interfered in the constitutional jurisdiction of this Court. The writ petition is without merit, it be dismissed.

4. Arguments heard. Record perused.

5. Perusal of record reveals that there is no evidence on the record that family partition had taken place, Even otherwise, if the parties are not satisfied with the family partition, they can seek legal partition under the law. After the partition, the mode of partition was proposed which was challenged before the Executive District Officer (Revenue) in revision petition who vide order dated 25.4.2006 accepted the revision petition. Feeling aggrieved, the petitioner assailed the order of Executive District Officer (Revenue) in revision petition before the Member Board of Revenue, Punjab, Lahore, which met the same fate and ROR was dismissed on 18.11.2009. The petitioner further assailed the matter in review petition before Member Board of Revenue, Punjab, Lahore, and it was again dismissed on 20.3.2010 by Senior Member Board of Revenue, Punjab, Lahore. There are Concurrent findings of three revenue Courts which could not be interfered in the constitutional jurisdiction of this Court. Even otherwise, the controversy in relation of 'wanda' or deficiency in the entitlement of a right holder, adjustment or allocation of land could not be a subject-matter of a writ petition/Reliance is placed on "2007 SCMR 1950", "1970 SCMR 292".

6. As a result of above discussion, this writ petition is without any substance, same is dismissed.

(S.L. Rana) Petition dismissed.