

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S).8193/2010

MUKHTIAR SINGH & ORS.

Appellant(s)

VERSUS

GURDIAL KAUR (DEAD) THROUGH LRS. & ORS.

Respondent(s)

O R D E R

While deciding this Appeal we had, *inter alia*, given the following directions:

"Notwithstanding that, the settlement arrived at between the parties is to the effect that the entire land of 90 Kanals and 17 Marlas would be divided into two parts, i.e., 50 per cent of the aforesaid land measuring 45 Kanals and 8 1/2 Marlas would be given by the respondents to the appellants. We make it clear that as per the settlement 45 Kanals and 8½ Marlas would be in the ownership of the respondents and the appellants would be owners of the remaining half share, i.e., 45 Kanals and 8½ Marlas. The Revenue Record shall be amended accordingly. 3. Learned counsel for the respondents states that during the pendency of the present appeal, the appellants had taken possession of the entire land, which fact is disputed by learned counsel for the appellants. Be as it may, learned counsel on both sides agree that land in question needs to be partitioned and half and half possession be given to the respective parties. In order to carry out the actual partition it is further suggested by learned counsel on both sides that a Court Commissioner be appointed in this behalf. We, accordingly appoint Shri Sanjay Sandhir, Member of Haryana Judicial Services, who presently is the Principal Private Secretary to the Chief Justice of Punjab & Haryana High Court for this purpose. He will visit the site alongwith the parties and their representatives to effect the actual partition and handover 50 per cent of the

land to each party. His fee, at present is fixed at Rs. 1,00,000/-, which shall be shared by both the parties equally."

Pursuant to the aforesaid directions Mr. Sanjay Sandhir, Additional District & Sessions Judge, Haryana Judicial Service carried out on-spot inspection and has submitted his report dated 08.07.2016. This report reveals that on 28.06.2016, the Court Commissioner visited the site at village Pakhikalan, District Faridkot, Punjab where certain officials as well as members belonging to both the parties were present. The original memo of presence was prepared by him. The presence of the parties was duly marked. Statements of the parties were also recorded. In their presence the learned Court Commissioner took the measurements of the land in question. He found certain discrepancies with regard to the area of some of the Khasra Numbers of the land in question as per Jamabandi and the Field Map. He also found that some land in question had been sold as well. The details of the land in question are stated in the said report in the following manner:

Sr. No.	Khasra No. as per Jamabandi 1981-82	Area of land in question as per Jamabandi for the year 1981-82	Khasra No. as per latest Jamabandi 2011-12	Area of land in question as per Jamabandi 2011-12	Area of land in question per the Field Map/Akssijra	Details of land sold out of land in question	Actually remaining area.
1.	999/1	4 Kanals 11 Marlas	3510/999	4 Kanals 11 Marlas	1 Kanal 2 Marlas (3K-9M less than the area as per Jamabandi)	--	1K 2M
2.	1000	14 Kanals 18 Marlas	1000	14 Kanals 18 Marlas	14 Kanals 18 Marlas	--	14K 18M
3.	1001	6 Kanals 14 Marlas	1001	6 Kanals 14 Marlas	6 Kanals 14 Marlas	---	6K 14M
4.	1359	14 Kanals	1359/1	14 Kanals	14 Kanals	5K 17M sold	8K 3M

						vide Sale deed No. 363 and 364 dated 29.4.2005	
5.	3067/1360	6 Kanals 18 Marlas	3067/1360	6 Kanals 18 Marlas	6 Kanal 16 Marlas (2 Marlas less than the area as per Jamabandi)	2K 17M sold vide Sale deed No. 363 and 364 dt. 29.04.2005	3K 19M
6.	3069/1362	12 Kanals 16 Marlas	3069/1362	12 Kanals 16 Marlas	12Kanals 16 Marlas	5K 7M sold vide Sale deed No. 363 and 364 dt. 29.04.2005	7K 09M
7.	1364/2	08 Kanals	1364 1364	2K 13M 5K 07M	8 Kanals 0 Marlas	4K 18M sold vide Sale deed No. 363 and 364 dt. 29.04.2005 and Sale deed no. 596 dt. 14.05.2003	3K 2M
8.	1363/2	12 Kanals	1363/2 1363/3	6K 6M 5K 14M	12 Kanals	6K 6M Sold vide Sale deed no. 596 dt. 14.05.2003	5K 14M
9.	1373/2	11 Kanals	1373/2 1373/3	08K 17M 02K 03M	18 Kanal 16 Marlas (7 Kanal 16 Marlas more than the area as per Jamabandi)	8K 17M sold vide Sale deed No. 972 dt. 11.12.1983 and Sale deed No. 996 dated 14.05.2003.	9K 19M
Total		90 Kanals 17M		90K 17M	95K 02M	34K 02M	61K 0M
Note: K-denotes Kanal							
M-denotes Marla							

On that basis, the learned Commissioner divided the land measuring 90 Kanals 17 Marlas equally in two parts thereby giving both the parties land measuring 45 Kanals 8½ Marlas each. He has recorded that the land is earmarked in this manner and actual possession has to be given on that basis.

Nobody has appeared on behalf of the appellants even on second call. No objection to the said report has also been filed. Therefore, we accept the report and pass a decree in terms of the settlement assigning half share each in the property in question as per the details given in the report and mentioned in the table

indicated above.

Learned counsel at this stage states that some of the area of land which has fallen into the share of the appellants is yet to be handed over to the respondents. It would be open to the respondents to seek execution of the decree. In respect of the land which had already been sold by the appellants, as mentioned by the Court Commissioner in his report, it would be open to the respondents to seek remedy whatever available to them in law.

We are informed that the respondents have paid their share of fee, that is Rs. 50,000/- (Rupees Fifty Thousand only), to the Court Commissioner but the appellants have not deposited the fee. Learned counsel for the respondents submits that the respondents are ready to pay the share of the appellants as well which they can pay within a period of two weeks.

Office report seeking directions is ordered accordingly.

.....J.
[A.K. SIKRI]

.....J.
[N.V. RAMANA]

NEW DELHI;
AUGUST 29, 2016.

ITEM NO.12

COURT NO.11

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 8193/2010

MUKHTIAR SINGH & ORS.

Appellant(s)

VERSUS

GURDIAL KAUR(DEAD) THROUGH LRS.& ORS.

Respondent(s)

(office report for direction)

Date : 29/08/2016 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE N.V. RAMANA

For Appellant(s)

Mr. Shekhar Kumar, Adv.

For Respondent(s)

Dr. S. K. Verma, Adv.
Dr. Sarbjit Sharma, Adv.
Mr. Pariamvada Surolia, Adv.
Dr. Sumit Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Office report seeking directions is ordered in terms of the
signed order.

(Ashwani Thakur)
COURT MASTER

(Tapan Kr. Chakraborty)
COURT MASTER

(Signed order is placed on the file)