

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 8= 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 8= 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

Signature Not Verified

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ASHWANI KUMAR
Date: 2016.08.31

16:18:29 IST

Reason:

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

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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 S andhir,

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.	Area of land in question as per Jamabandi 1981-82	of Khasra in No. as per latest Jamabandi for the year 1981-82	Khasra No.	Area of land in question as per Jamabandi 2011-12	Area of land in question as per the Field Map/Akssijra	Details of land sold out of land in question	Actual remaining area.
1.	999/1 K 2M	4 Kanals	3510/999	4	4 Kanals	1 Kanal 2 Marlas (3K-9M less than the area as per Jamabandi)	--	1
2.	1000 4K 18M	14 Kanals	1000	14	14 Kanals	14 Kanals	--	1
3.	1001 K 14M	6 Kanals	1001	6	6 Kanals	6 Kanals	---	6
4.	1359 8K 3M	14 Kanals	1359/1	14	14 Kanals	14 Kanals	5K 17M	1 sold
5.	3067/1360 M	6 Kanals	3067/1360	6	6 Kanals	6 Kanals	2K 17M	3K 19 sold
		18 Marlas			18 Marlas	16 Marlas (2 Marlas less than the area as per	vide Sale deed No. 363 and 364 dated 29.4.2005	
							vide Sale deed No. 363 and 364 dt. 29.04.2005	

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

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 8= 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

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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.

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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
RECORD OF PROCEEDINGS

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

(Signed order is placed on the file)

(Tapan Kr. Chakraborty)

COURT MASTER