



**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE G. S. AHLUWALIA

ON THE 4th OF OCTOBER, 2024

WRIT PETITION No. 30309 of 2024

GULAB KEWAT AND OTHERS

Versus

***STATE OF MADHYA PRADESH, THROUGH PRINCIPAL
SECRETARY, DEPARTMENT OF REVENUE, VALLABH BHAVAN,
BHOPAL AND OTHERS***

Appearance:

Shri Himanshu Mishra - Advocate for the petitioner.

Shri Gajendra Parashar – Panel Lawyer for the respondents/State.

ORDER

This petition under Article 226 of Constitution of India has been filed seeking the following reliefs :-

“A. To issue a writ in the nature of certiorari quashing the impugned order dated 09.09.2024 (Ann P/4) passed by respondent no.2 i.e. Additional Commissioner Rewa Division, Rewa and further be pleased to restore the orders dated 12.12.2022 passed by respondent no.4 i.e. SDO (Revenue) Singrauli and order dated 01.10.2020 passed by Naib Tehsildar i.e. respondent no.5, in the interest of justice.

B. Call entire relevant records pertaining to the instant case for kind consideration of this Hon’ble Court.

C. Any other reliefs or orders which this Hon’ble Court deemed fit and proper under the facts and circumstances in the interest of justice.”

2. It is submitted by counsel for petitioners that an application was filed for partition of land and accordingly Patwari submitted a report on



16.1.2020 thereby proposing to allot different lands to different co-sharers. The proposal submitted by the Patwari was accepted by Naib Tahsildar, Circle Sausar, District Singrauli by its order dated 1.10.2020 passed in Revenue Case No.13/A-27/2020-21. Being aggrieved by the said order, the respondent nos.6 to 12 and Sughani preferred an appeal, which was registered as Appeal No.388/Appeal/2021-22 and by order dated 12.12.2022 the SDO (Revenue), Singrauli, dismissed the appeal. Being aggrieved by the said order, the respondent nos.6 to 12 and Sughani preferred a review, which was registered as Review No.6/Review/2023-24, which was dismissed by SDO, Singrauli by order dated 7.7.2023. Being aggrieved by the orders passed by Tahsildar and SDO, respondent nos.6 to 12 and Sughani preferred an appeal, which was registered as Appeal No.634/Appeal/2022-23 and by order dated 9.9.2024 the Additional Commissioner, Rewa Division, Rewa has allowed the appeal and has set aside the order of partition mainly on the ground that unequal share has been given to the co-sharers.

3. Challenging the order passed by Additional Commissioner, Rewa Division, Rewa it is submitted by counsel for petitioners that it is true that unequal share was given to the parties but the partition was done on the basis of value and quality of land and, therefore, it cannot be said that unequal share was given. Further, 2 hectares of land was given to certain persons as there was some dispute with regard to that and no separate order of partition was passed in that regard.

4. Furthermore, Sughani, Bhuari (respondent no.10), Loli (respondent no.11) and Foto (respondent no.12) have also sold their property to the family members of Ramlallu (respondent no.6),



therefore, it is clear that some of the co-sharers have acted upon the partition and thus, they cannot challenge the same.

5. Per contra, the petition is vehemently opposed by counsel for counsel for State.

6. From the proposal, which was submitted by Patwari, it is clear that unequal share was given to different persons. Why it was done, has not been clarified. There is nothing on record to show that unequal share was given by keeping quality, location as well as price of the land in mind. Furthermore, 1.450 hectares of land was jointly given to Sughani, Ramlallu, Bhagwandas, Gulab Rai, Premlal, Guddi, Bhuari, Loli, Foto, Janakdhari, Akhilesh, Gudiya etc. This 1.450 hectare of land was not separately partitioned, but it was combinedly given to these persons. In a partition case, how such a procedure can be adopted could not be explained by the petitioner. Therefore, in absence of any basis for giving unequal share to the co-sharers, it cannot be said that the partition was done appropriately. Furthermore, partition *Pulli* was not signed by all the co-sharers. Under these circumstances, this Court is of considered opinion that an unequal partition was done. It is true that Sughani, Bhuari, Loli and Foto have alienated some part of the land to the family members of Ramlallu, but their action would not bind other co-sharers, who have got unequal share.

7. Under these circumstances, this Court is of considered opinion that the Additional Commissioner, Rewa Division, Rewa did not commit any mistake by setting aside the order of partition passed by Tahsildar as well as SDO.



8. Accordingly, the petition fails and is hereby **dismissed**. However, liberty is granted to the parties to file a fresh application under Section 178 of MP Land Revenue Code.

(G.S. AHLUWALIA)
JUDGE

TG/-