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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-2865-2025 (O&M)

Date of Decision: 03.02.2025

Balbir Singh and others

....Petitioners

Versus

Financial Commissioner, Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Naresh Prabhakar, Advocate
for the petitioners.

Mr. Rajneesh Chadwal, AAG, Haryana.

HARSH BUNGER, J. (Oral)

Petitioners have filed the instant writ petition under Articles 226/227 of the Constitution of India *inter alia* for setting aside of Sanad Taksim dated 22.07.2016 (Annexure P-14) and also order dated 26.12.2024 (Annexure P-17) passed by the learned Financial Commissioner, Haryana.

2. Briefly, petitioners No.1 to 3 and predecessors in interest of petitioners No.4 to 6 are stated to have purchased 16 *kanals* of land from one Ranbir Singh s/o Sube Singh out of joint land measuring 139 *kanals* 2 *marlas* situated at village Naultha, Tehsil Israna, District Panipat vide registered sale deed dated 13.12.1994 (Annexure P-1).

2.1 Similarly, the petitioners are stated to have purchased another 3 *kanals* 19 *marlas* of land out of the aforesaid joint land vide registered sale deed dated 02.11.1995 (Annexure P-2). Therefore, in total the petitioners have purchased 19 *kanals* 19 *marlas* out of the joint *khewat* measuring 139 *kanals* 2 *marlas*.

2.2 Petitioners claim that at the time of execution of the said sale deeds, they were handed over the possession of specific area comprised in

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khasra No.71/20 min (0-18), 21(7-11), 22(7-11), 70/25/2 min (1-0) and 71/20(2-19).

2.3 The aforesaid sale deeds are stated to have been mutated in the revenue records as well. Petitioners claim that they have been continuing in possession over the aforesaid specific *khasra* numbers.

2.4 It transpires that Sh. Dharambir Singh {predecessor of respondent No.3 (i) to (iv)} also purchased 8 *kanals*-9 *marlas* out of the total joint land comprised in Khewat No.44 measuring 25 *kanals* 9 *marlas* (as per jamabandi 1995-96) vide sale deed dated 18.06.1998 (Annexure P-8) from one Karan Singh. Karan Singh is stated to be the brother of the vendors of the present petitioners.

2.5 It is stated that in sale deed dated 18.06.1998 (Annexure P-8) in favour of Sh. Dharambir Singh also there is a recital that he has been handed over possession of specific *khasra* numbers comprised in *Khasra* No. 71/19 (7-8) and 20 min south (1-1).

2.6 On 06.04.2012, Sh. Dharambir Singh filed an application seeking partition of joint land. In the said partition proceedings, petitioners appeared and submitted their reply. The mode of partition was prepared vide order dated 26.06.2015 (Annexure P-11) and thereafter, *Naksha Bey* came to be approved on 03.06.2016 (Annexure P-12) and *Naksha Zeem* was approved on 20.06.2016 and the partition proceedings concluded with the drawing of the Sanad Taksim (instrument of partition) on 22.07.2016 (Annexure P-14).

2.7 The present petitioners challenged the partition proceedings/ Sanad Taksim by filing a writ petition (CWP-19353-2016) before this court, however, the petitioners were relegated to the remedy of revision before the Financial Commissioner vide order dated 17.10.2016 (Annexure P-15).



2.8 Thereafter, the petitioners preferred revision petition bearing ROR No.63 of 2016 before the learned Financial Commissioner however, the same has been dismissed by the learned Financial Commissioner vide impugned order dated 26.12.2024 (Annexure P-17).

3. In the aforementioned circumstances, the petitioners have filed the instant writ petition before this Court for seeking reliefs as noticed hereinabove.

4. Learned Counsel for the petitioners submits that the learned Assistant Collector has erred in law and fact in carrying out the partition proceedings. It is submitted that Clause 3 of the mode of partition specifically provided that the partition be carried out without disturbing the possession, however, in the partition proceedings, the possession of the parties has been disturbed. It is further submitted that the petitioners have been allotted 16 *kanals* 19 *marlas* of land as against their entitlement of 19 *kanals* 19 *marlas* and on the other hand vendors of Sh. Dharambir Singh have sold him more area than their entitlement. It is therefore submitted that the partition proceedings be set aside being contrary to the mode of partition and the matter be remanded to the Assistant Collector for deciding the matter afresh.

5. Heard.

6. In the present case, Sh. Dharambir Singh filed an application seeking partition of joint land. In the partition proceedings, mode of partition came to be finalized by the Assistant collector vide order dated 26.06.2015 (Annexure P-11). The relevant extract of which reads as under:

“1. The land to be partitioned measuring 25K 9M is situated in khewat No. 48, as per jamabandi of the year 2000-01 of village Naultha, Tehsil Israna, District Panipat.

2. A separate kurra be carved out for the applicant in the



land in dispute. A separate kurra be carved out for respondent Nos. 1 to 3 and 12 to 17 and a separate one for respondent Nos. 4 to 11.

3. Partition be carried out without disturbing the possession. Short fall can be made good from adjoining land. Tubewell installed by a party be included in his kurra and land be given at one place.

4. While carrying out partition provision of minor and rasta be made and valuable trees be equally distributed.

5. Short fall of upto 2 marla land be ignored.

6. Partition will be carried out by halqa kanungo and halqa patwari will assist him.

7. Fees of partition is determined as Rs.2,000/- which will be initially paid by applicant and subsequently the share of respondents will be taken from them.”

7. A perusal of the above extracted mode of partition would show that Sh. Dharambir Singh had sought partition of *khewat* No.48 as per jamabandi for the year 2000-01 of Village Naultha, Tehsil Israna, District Panipat. The *kill*a numbers under partition are 19(7-8), 20 (2-19), 21(7-11) and 22(7-11) and the said area has been partitioned in the final partition as in the following manner:

Name of Owner	Khasra No.	Area
Dharamvir Singh S/o Raghbir Singh S/o Desh Raj resident deh	71//19 22/1 Parcels 2	7-8 1-2 Total 8-0
Fateh Singh-Nafe Singh- Ishwar Singh-Balbir Singh sons of Jage Ram S/o Rati Ram in four share 73/339 share, Ramehar Singh, Shamsher Singh, Sewa Singh Jai Pal Singh sons of Baljit Singh S/o Bharat Singh all four equal shares 24/339 shares, Ranbir Singh S/o Sube Singh S/o Laxman 18/339 shares, Hari Om, Balram sons of Lakhmi Chand S/o Kashi Ram both equal shares 54/339 shares, Vinod Kumar, Kuldeep Singh sons of Om Parkash S/o Sube Singh both equal shares 170/339 shares	71//20 21 22/2 3 parcels	2-19 7-11 6-9 Total 16-19

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8. I have considered the submissions raised by learned counsel for the petitioners that during the partition, the possession of the petitioners over the land under their possession has been disturbed, however, I do not find any merit in the said assertion as the petitioners have failed to refer to any objection raised in that regard when *Naksha Bey* was proposed.

9. Once the petitioners have not raised any objection at the time of finalizing of *Naksha Bey* or *Naksha Zeem*, now after the final partition has been concluded with the drawing of Sanad Taksim, the petitioners cannot be permitted to raise such issues.

10. As regards the plea of the petitioners that they have not been given area as per their entitlement; suffice it to say that the petitioners have not placed on record *Naksha Alif* or *Naksha 'Ka'* so as to show their entitlement nor said document has been shown in Court. In the absence of *Naksha Alif* or *Naksha 'Ka'*, the aforesaid plea of petitioners cannot be considered.

11. In view of the above, I find no merit in the instant writ petition, therefore the same is accordingly dismissed.

12. All pending application(s), if any, shall also stand closed.

03.02.2025*Himani***(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No