

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

Civil Writ Petition No.1010 of 2015 (O&M)

Date of Decision: 02.03.2015

Ram Kumar

..... Petitioner

Vs.

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. D.P.S.Bajwa, Advocate for the petitioner.

JASWANT SINGH, J. (Oral)

CM No.2753 of 2015

This application is for placing on record the Nehri Khasra Girdawaris dated 03.02.2011 (**Annexure P-9**) and 18.12.2014 (**Annexure P-10**) along with their translated copies.

CM is allowed. Documents are taken on record.

CWP No.1010 of 2015

The petitioner-Ram Kumar has prayed for quashing of the order dated 10.04.2009 (**Annexure P-1**), passed by respondent No.5/Assistant Collector 1st Grade, Narwana, District Jind, whereby his objections to the '*Naksha Beh*' have been dismissed. Further challenge is to the order dated 07.07.2009 (**Annexure P-2**), passed by respondent No.4/Collector, Sub Division Narwana, whereby his appeal has been dismissed, and the order dated 04.01.2010 (**Annexure P-3**), passed by respondent No.3/Commissioner, Hisar Range, dismissing his revision, and the order dated 20.09.2012 (**Annexure P-4**), passed by respondent No.2/Financial Commissioner (Revenue), Haryana, dismissing his ROR.

The learned Counsel for the petitioner has argued that the Authorities below have wrongly allotted Killa No.46//7 and 8 to the applicant-Dhoop Singh (respondent No.6 herein) by ignoring the mode of partition and the actual cultivating possession of the petitioner. He further submitted that by carving out a separate *tak* for the applicant-Dhoop Singh and the other *tak* for rest of the co-sharers, the partition is not proper and, therefore liable to be set aside.

Having heard learned Counsel for the petitioner, this Court finds no grounds for interfering with the findings of fact recorded by all the Authorities below.

It is apparent that respondent No.6/Dhoop Singh s/o Prithi s/o Santhu, r/o Village Danoda Kalan filed an application for partition of agricultural land measuring 428 Kanals and 16 Marlas claiming 1/8th share and a separate *tak*. It is not in dispute that the land measuring 428 Kanals and 16 Marlas was originally owned by Santhu, who had two sons-Prithi and Dalipa, who in turn have four sons each. Dhoop Singh/respondent No.6 and Ram Kumar/petitioner are real brothers being sons of Prithi (since deceased). Their uncle-Dalip is still alive, and thus applicant-Dhoop Singh by impleading his three real brothers, uncle-Dalip and four cousins filed an application for partition wherein mode of partition was finalized as per P-5. It was *inter alia* agreed that the land shall be partitioned in two *taks* and as per possession. It was also agreed that there shall be no objection in case of variation till 2 Marlas. The Authorities below have noticed that the parties had agreed for division in two separate *taks* rather than fragmented into separate parts and, therefore, no necessity to interfere with the mode of partition. The Authorities have also noticed that partition has been done according to *Tarika Taksim*. The petitioner and rest of the co-sharers have not claimed partition of their shares and, therefore, have been put in separate *tak*. Assuming for the sake of arguments, even

if the possession of the petitioner in Mustil No.46 Killa Nos.7 and 8 has been disturbed while carving out a separate *tak* for the applicant-Dhoop Singh, no case for interference is made out, moreso at this belated stage when the partition proceedings have been finalized. Even the instant writ petition has been filed after a delay of more than two years.

In view of the above, no case for interference is made out, hence the writ petition is hereby dismissed. No costs.

March 02, 2015
Gagan

(JASWANT SINGH)
JUDGE