

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

CWP-17944-2013

Date of decision : 05.11.2015

Hari Singh & Anr.

..... Petitioners

Vs

Financial Commissioner, Haryana & Ors.

..... Respondents

Coram : Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. R.N. Lohan, Advocate
for the petitioner.

Mr.P.P. Chahar, DAG, Haryana.

Mr. U.K. Agnihotri, Advocate
for respondents No. 5 & 6.

Rakesh Kumar Jain, J. (oral)

Learned counsel for the petitioner has submitted that 'Sanad Taksim' was prepared on 20.07.2004 against which respondents No. 5 & 6 preferred an appeal before the Collector which was allowed.

Learned counsel for the petitioners while referring to a Division Bench judgment of this Court in ***Amar Khan & others v. State of Punjab & others, 2009(1) RCR (Civil) 741*** has submitted that no appeal is maintainable against the order of partition i.e. Sanad Taksim (final document of partition) as the remedy lies under Section 16(1) of the Punjab Land Revenue Act, 1887 (for short 'the Act') before the Financial Commissioner.

Learned counsel for the respondents has not cited any judgment to the contrary, however, it is submitted that he may file a revision petition under Section 16(1) of the Act before the

Financial Commissioner against the 'Sanad Taksim' because the entire proceedings have been carried out behind his back.

After hearing learned counsel for the parties and keeping in view the facts emerging from the arguments, the present petition is hereby allowed, the impugned orders are hereby quashed. Liberty, however, is granted to respondents No. 5 & 6 to challenge 'Sanad Taksim' (final document of partition) by way of revision, which could be filed under Section 16(1) of the Act, if so advised, before the Financial Commissioner. If the revision petition is filed within two weeks from today, the parties are directed to maintain status quo in regard to possession. In default thereof, the order of status quo would not operate. It is also made clear that respondents No. 5 & 6, may file revision before the Financial Commissioner along with an application for stay which shall be decided by the Financial Commissioner in accordance with law, without being influenced with the order passed by this Court, granting stay for two weeks.

(RAKESH KUMAR JAIN)

JUDGE

05.11.2015

sp