

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 659 of 2013 (O&M)

Date of Decision: 20.1.2015

Ram Chander and Others

... Petitioner(s)

Versus

State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Rajan Gupta.

Present: Mr. Vikram Singh, Advocate
for the petitioner(s).

Mr. Saurabh Mohunta, Deputy Advocate
General, Haryana for respondents No.1 to 4.

Mr. Arun Jain, Senior Advocate
with Mr. Deepak Basatia, Advocate
for respondents No.5 to 35.

Rajan Gupta, J.

Petitioners have sought writ in the nature of certiorari for quashing orders (Annexures P5 to P9), respectively, passed by the revenue authorities whereby land in question had been partitioned.

Counsel for the petitioners has vehemently assailed the orders. According to him, entire partition proceedings are vitiated as land, which is subject to river action, has been allotted to the petitioners. Partition has resulted in complete miscarriage of justice.

Mr. Jain, counsel for private respondents has opposed the plea. According to him, land was divided into three categories i.e. "A", "B" & "C". Petitioners have got maximum share out of "A" category land which is of good quality. According to him, entire land is affected by the flow of river Yamuna. Plea of the petitioners that the revenue authorities have discriminated against them is misplaced. Learned State counsel

has made submissions on similar lines.

I have heard counsel for the parties.

On 11.11.2004, application was moved by certain private respondents for partition of land measuring 1687 kanals 14 marlas. Admittedly, petitioners have 9/60 share therein. They prayed that a separate khewat be created with respect to their share. Assistant Collector Grade-I sanctioned *Naksha "Kha"* on 13.7.2007. This order was challenged before various authorities. Ultimately, vide his order dated 31.3.2008, Commissioner, Gurgaon remanded the case to Assistant Collector Ist Grade to conduct a spot inspection and partition the land in terms of mode of partition. The Assistant Collector, thereafter, conducted a spot inspection and afforded opportunity of hearing to the parties. Thereafter, he passed order (Annexure P5). Operative part of his order reads as under:-

The arguments of both the counsels has been heard carefully and after perusal of objections of objectors carefully it is observed that all the objections of the objectors have solved completely by this Naksha Kha. Although with the consent of the applicants it has been tired to resolve the dispute after giving the 1¾ th acre excess land of good quality adjacent to the tubewell. So, the Naksha Kha is ordered to be sanctioned after dismissing the objections.

The partition is accepted as per above and expiry of limitation of appeal the Sanad Taksim be prepared, the file be consigned to record room after compliance. Order pronounced."

Thereafter, *Sanad Takseem* was issued on 20.12.2011. Petitioners posed a challenge to said orders before the Financial Commissioner,

Haryana. He, however, came to the conclusion that the land was categorized into three categories i.e. "A", "B" & "C". Out of this, "A" category was good quality land. He came to the conclusion that Assistant Collector had made equitable partition keeping in view the three categories. Petitioners were given almost two acres more than their share as their tubewell was situated therein. As partition was in accordance with the mode of partition, he rejected the revision petition.

I find no infirmity with the orders. At the time of hearing of the writ petition, the concerned officer i.e. Assistant Collector was directed to remain present to assist the court. He submitted that petitioners had been allotted approximately 76 kanals of land out of the good quality ("A" category) land. Besides, land had been partitioned in accordance with the mode of partition.

Under the circumstances, I find no ground to interfere in the writ jurisdiction. Partition proceedings have been pending since 2004. Matter was earlier remanded to the Assistant Collector to conduct a spot inspection and afford opportunity of hearing to the parties. Any interference, at this stage, would give rise to *de novo* proceedings. Perusal of the site plan does not show that there has been inequitable distribution of the land or some injustice has been caused to the petitioners. Petition is, thus, without any merit and is hereby dismissed.

(Rajan Gupta)
Judge

January 20, 2015

"DK"