

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

CWP No.6865 of 2015

Date of Decision:-10.04.2015

Balbir Singh.

.....Petitioner.

Versus

Assistant Collector Ist Class, Abohar & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Jaswinder Singh Grewal, Advocate for the Petitioner.

JASWANT SINGH, J. (ORAL)

Challenge in the present petition is to the order dated 14.01.2015 (P-5) passed by the learned Assistant Collector Ist Grade, Abohar, whereby mode of partition has been accepted.

Learned Counsel for the petitioner has vehemently argued that the order impugned herein suffers from material illegality and irregularity because no adequate opportunity to file objections were given so as to challenge the proposed mode of partition and further, learned Assistant Collector, Grade-I has approved it on the same day, in a very hasty and harsh manner and, therefore, the impugned order is liable to be set aside.

After hearing learned Counsel for the petitioner and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

The ground taken by the petitioner that no adequate opportunity

of hearing was given to him is completely falsified from the impugned order dated 14.01.2015 (Annexure P-5) whereby it is apparent that no objection has been raised by any of the persons concerned to the mode of partition and it was on the basis of no objection being raised to the mode of partition that the mode of partition was approved by Assistant Collector, Grade-I, Abohar.

Furthermore, the petitioner has stated that his application for dismissal of application for partition Annexure P-3 was not decided till date and, therefore, grave illegality has been caused because as per him he raised objections against the proceedings initiated by private respondent for partitioning the land. The argument raised by learned Counsel for the petitioner appears to be forceful on the first blush, however, the careful scrutiny of the application Annexure P-3 shows that the objection taken by the petitioner herein is only to the effect that *Aks Shajra* has not been attached with the file. However, it is apparent from impugned order that “*Naksha AARA*” has been ordered by Assistant Collector Grade-I to be prepared by concerned Halqa Kanugo. Since the location of the property is not in dispute, therefore, non production of the *Aks Shajra* would pale into insignificance. Not only this, it is apparent that a similar objection was raised by the petitioner vide his application Annexure P-4 to the preparation of the *Naksha Ura* on 24.12.2014 and admittedly, the said application was dismissed which has is not shown to have been challenged before any court of law. The plea that the applicant in the suit for permanent injunction filed by the present petitioner has taken a contradictory stand that partition has been effected also is irrelevant in the light of conceded position that the land in dispute is being shown in joint ownership of the applicant and the

petitioner. The question that the ownership of the applicant to the extent of her share is a *benaami* transaction can only be challenged by the present petitioner in a separate suit for declaration and thus, for the present partition proceedings the indicated ownership of the applicant is sufficient for proceeding with the partition proceedings under the Punjab Land Revenue Act. In this situation, the objection that has been raised by the learned Counsel for the petitioner is not only frivolous but only a delaying tactic so as to harass the private respondent who has filed application for partition.

In view of the above, finding no merit in the present writ petition the same is hereby dismissed.

**(JASWANT SINGH)
JUDGE**

April 10, 2015
Vinay