CWP-3227-2014

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3227-2014 (O & M)
Date of Decision: 04.04.2016

Raj Singh and others

... Petitioner(s)

Versus

Financial Commissioner (Revenue), Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH DHALIWAL

1) Whether Reporters of the local papers may be allowed to see the judgment ?.
2) To be referred to the Reporters or not ?.
3) Whether the judgment should be reported in the Digest ?

Present: Mr. Sudhir Rana, Advocate for
Mr. Abhimanyu Singh, Advocate for
the petitioners.

Mr. Sandeep S. Mann, Sr. DAG, Haryana.

Ms. Kamaldeep Kaur, Advocate for
Mr. Adarsh Jain, Advocate for
respondent Nos.5 to 10.

Paramjeet Singh Dhaliwal, J.(Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the order dated 01.05.2013 (Annexure P-5) passed by respondent No.1-Financial Commissioner (Revenue), Haryana whereby

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order dated 15.03.2011 (Anexure P-4) passed by respondent No.2-Commissioner, Gurgaon Division, Gurgaon and order dated 31.01.2006 (Annexure P-3) passed by respondent No.3-Collector, Faridabad and order dated 09.11.2004 (Annexure P-1) passed by respondent No.4-Assistant Collector-IInd Grade, Hodal, have been set aside.

Brief facts of the present case are to the effect that the petitioners filed an application for partition of agricultural land measuring 68 kanals 9 marlas situated within the revenue estate of village Bhupgarh @ Tikri, Tehsil Hodal, District Faridabad (now Palwal), in the year 1998. The mode of partition was approved on 21.09.1999. Thereafter, '*Naksha Bey'* and *'Naksha Zeem'* were approved at the spot and ultimately *sanad takseem* was issued on 01.12.2004. Thereafter, respondent Nos.5 to 10 preferred appeal against the sanctioning of partition by respondent No.2 but the same was dismissed vide order dated 31.01.2006 by respondent No.3. Against that, respondent Nos.5 to 10 preferred revision before respondent No.2-Commissioner, Gurgaon Division, Gurgaon which was dismissed vide order dated 15.03.2011. Against that, respondent Nos.5 to 10 preferred revision before respondent No.1-Financial Commissioner which has been allowed vide impugned order dated 01.05.2013 (Annexure P-5). Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

Vide impugned order dated 01.05.2013 (Annexure P-5),

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respondent No.1 has rightly come to the conclusion that the Assistant Collector-IInd Grade could not distinguish between '*Naksha Bey'* and *'Naksha Zeem'* in accordance with the instructions issued in Chapter 18 of the Haryana Land Records Manual which seems to have not been followed. After framing of mode of partition, '*Naksha Kha'* was required to be called for and against that, opportunity to file objections was required to be given to the respective parties whereas the same has not been done by the Assistant Collector-IInd Grade. It appears that due procedure has not been followed by the Assistant Collector-IInd Grade and he may not be even aware of the difference between '*Naksha Bey'* and *'Naksha Zeem'*. Since some of the steps have been missed by the Assistant Collector-IInd Grade and since no opportunity to file objections to '*Naksha Bey'* has been given, this Court is of the opinion that respondent No.1 has rightly set aside the orders (Annexures P-1, P-3 and P-4).

In view of above, I do not find any illegality or perversity in the impugned order.

Dismissed.

However, it is made clear that Assistant Collector-IInd Grade shall call the '*Naksha Bey'* afresh and afford opportunity to all the parties to file objections against the same and thereafter proceed further in accordance with law by affording opportunity of hearing. This Court has no doubt that Assistant Collector-IInd Grade shall peruse the

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instructions provided in Chapter 18 of the Haryana Land Records Manual before passing fresh orders. Needful shall be done at the earliest, preferably within six months from the date of receipt of copy of this order.

04.04.2016 **(Paramjeet Singh Dhaliwal)**
parveen kumar **Judge**

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