

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

**C.W.P No. 1860 of 2013(O&M)  
Date of Decision:- 19.07.2017**

Ram Singh & Ors. ....Petitioners

Versus

State of Haryana & Ors. ...Respondents

**CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN**

Present: Mr. Gaurav Mohunta, Advocate, for the petitioners.

Ms. Tanisha Peshawaria, DAG, Haryana.

**RAKESH KUMAR JAIN, J. (Oral)**

***C.M No. 9555 of 2017***

This application is filed for bringing on record the legal heirs of petitioner No.2 (deceased).

Heard.

Application is allowed subject to all just exceptions.

***C.W.P No. 1860 of 2013***

From the zimni orders I find that learned counsel for respondent Nos. 3 to 8 are not appearing from the last three dates i.e. 13.12.2016, 27.04.2017 and 11.07.2017. Today also no one has put in appearance on their behalf.

Learned counsel for the petitioners has pressed the petition and submitted that application for partition was filed by the private respondents 6 to 8 on 17.09.2014, to which reply was filed by the

petitioners. Mode of partition was prepared on 09.05.2007, to which no objections were filed by the petitioners. The naksha-be was prepared on 22.08.2007, which was also objected to by the petitioners on the basis of which spot inspection was carried out by Patwari on 02.01.2008. A compromise was effected between the parties on 09.01.2008 and a fresh naksha-be was prepared. Since, the naksha-be prepared in terms of the compromise was not acceptable to the private respondents, therefore, the private respondents filed an appeal before the Collector against the order dated 09.01.2008. The said appeal was allowed and the case was remanded back. The petitioners filed revision before the Commissioner which was dismissed on 26.11.2008. Thereafter, a revision before the Financial Commissioner was also dismissed on 24.03.2009. There was a round of litigation before this Court. Writ Petition No. 9058 of 2009 was filed by the petitioners challenging the orders passed by the revenue authorities, in which notice was issued on 04.06.2009 and ultimately the writ petition was disposed of on 25.11.2010 by modifying the order of Assistant Collector, 2<sup>nd</sup> Grade, directing him to assess the value of the defunct tubewell and kotha situated in khata No.13, Khasra No.3/1. It has also been observed therein that the petitioner would pay to respondent Nos. 6 to 8 half the value of the tubewell and the kotha so assessed by the Assistant Collector 2<sup>nd</sup> Grade. It is submitted that the said direction was not complied with by the Assistant Collector 2<sup>nd</sup> Grade, therefore,

Contempt Petition No. 335 of 2011 was filed by the petitioners, which was disposed of on 28.03.2012 by imposing the cost of Rs. 25,000/- upon the Assistant Collector 2<sup>nd</sup> Grade. While the matter was pending before the Financial Commissioner, the private respondents got prepared the Sanad Taksim on 18.03.2009 and filed a Civil Writ Petition No. 21619 of 2012 for seeking direction to implement the Sanad Taksim. The said petition was disposed of on 01.11.2012 directing the petitioners to approach the respondent-authority. The private respondents filed L.P.A No. 2126 of 2012. The said appeal was dismissed on 19.12.2012.

Grievance of the petitioners is that the Sanad Taksim has been prepared contrary to the compromise. According to the learned counsel for the petitioners there are two operational tubewells in Khasra Nos.23/1 and 3/2 of Khata No. 13. It is submitted that tubewell belonging to the petitioner is in Khasra No.23/1 and that belonging to the private respondents is in 3/2, but it has been given conversely i.e. 3/2 has been given to the petitioners and 23/1 has been given to the private respondents and that is how the dispute has arisen. It is also submitted that trees grown by the petitioner falling in Khasra No.13//3/1 have been given to the private respondents. Learned counsel for the petitioners has submitted that either designedly or otherwise the sanad taksim has been got prepared by the private respondents taking the land in which the tubewell of the petitioner is operational i.e. in

Khasra No. 23/1. Otherwise in terms of the order dated 09.01.2008, which is on record, having been passed by the Assistant Collector, 2<sup>nd</sup> Grade, Radaur on basis of compromise, the petitioners had to take land falling in Khasra No.23/1 alongwith tubewell and the private respondents had to take land falling in Khasra No. 3/2 with the tubewell. Since there is no dispute that respondents are also entitled to the tubewell, which has been sunk by them in land falling in Khasra No. 3/2, but has been given the tubewell in land falling in Khasra No. 23/1, therefore, in order to sort out the dispute between the parties, it is directed that the sanad taksim be modified in accordance with the compromise and the land with the tubewell falling in Khasra No. 23/1 be given to the petitioners and the land with the tubewell falling in Khasra No. 3/2 be given to the private respondents. Similarly as per compromise, land falling in Khata No. 13, Khasra No.3/1 on which fruit trees of the petitioners are grown be also given to the petitioners.

With these observations, the present petition is disposed of.

July 19, 2017

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**(RAKESH KUMAR JAIN)**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No