

CWP No.12281 of 2017

[1]

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

**CWP No.12281 of 2017
Date of decision:12.07.2017**

Nidhan Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. R.S.Chauhan, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

This petition is filed for seeking quashing of the order dated 07.10.2016 passed by the Sub Divisional Magistrate, Mukerian. This case has a chequered history which may be noticed in brief.

The petitioner filed an application under Section 111 of the Punjab Land Revenue Act, 1887 for seeking partition of the joint khewat. The mode of partition was proposed on 21.10.2003 and approved on 05.05.2004 by the Sub Divisional Officer, Mukerian but further proceedings were not carried out because the order dated 05.05.2004 was challenged in appeal. That appeal was disposed of by the Collector on 08.09.2005 and the order of the Assistant Collector 1st Grade was maintained. That order of the Collector became final. Thereafter, the further proceedings were not carried out for the purpose of issuance of Sanad Taqsim. The petitioner, thus, moved an application on 30.12.2006 for proceeding with the partition proceedings but it was not decided. As a result thereof, the petitioner again made various representations

and ultimately had to come to this Court by filing CWP No.3494 of 2013 for issuance of a writ of *mandamus*. The said writ petition was disposed of on 18.02.2013, directing the respondents much-less the Deputy Commissioner, Hoshiarpur to decide the representation of the petitioner dated 29.02.2012 by passing an appropriate order. The said representation was decided by the Deputy Commissioner, Hoshiarpur on 23.07.2015 holding that no further action is required as the Naib Tehsildar has already decided the matter. The petitioner was not satisfied because of the delay having been caused in the decision of the partition application, therefore, he filed another CWP No.23372 of 2015, which was disposed of by this Court on 02.11.2015 by issuing direction to examine application of the petitioner and to decide the same within a period of three months. Thereafter, the said application has been decided vide the detailed impugned order, in which the SDM, Mukerian has recorded the following observations:-

“Perusal of the record shows that partition cases were conducted in proper manner by adopting due process and there was no delay on the part of revenue staff. The time consumed in the disposal was due to large number of parties and another reason was that cases were filed against some dead persons and this fact was traced out during disposal of the appeal. The appeal was disposed off accordingly and partition cases were also consigned due to this reason with a direction to file fresh cases. Another main reason was pendency of civil litigation between the parties as to question of title. Hence, the partition proceedings were kept sine die.

Moreover, it is clear from the record that Nidhan Singh is fully satisfied with the orders passed in the partition cases as he has not preferred any appeal against the orders, on the contrary he had contested the appeals through his counsel by filing written arguments.”

The petitioner is still not satisfied and submits that no concrete

finding has been recorded by the SDM, Mukerian in respect of tampering with the revenue record.

This Court has no mechanism to decide about the tampering with the revenue record because it requires evidence, therefore, the petitioner may, if so advised, approach the Civil Court by filing a civil suit in respect of tampering of record.

With these observations, the present petition is disposed of.

July 12, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No