

CWP No.15259 of 2017

[1]

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

**CWP No.15259 of 2017
Date of decision:18.07.2017**

Jai Prakash and others

...Petitioners

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Harish Mehla, Advocate,
for the petitioners.

Rakesh Kumar Jain, J.

This petition is filed for seeking a writ in the nature of *certiorari* to quash the orders of the Assistant Collector 1st Grade, Pundri dated 30.04.2015, of the Collector, Kaithal dated 20.11.2015, of the Divisional Commissioner dated 15.07.2014, of the Financial Commissioner dated 09.05.2017 and for the issuance of a writ in the nature of *mandamus*, for a direction to respondent no.4 to decide the special objections dated 11.12.2014 raised in respect of the *Naksha-Be* in the partition proceedings.

The objections to the *Naksha-Be* were dismissed on 30.04.2015 by the Assistant Collector 1st Grade and the appeal filed against it to the Collector was dismissed with the following observations:-

“After hearing arguments forwarded by learned counsels for rival parties, I have reached to the conclusion that ld. lower Court has passed the *Naksha-Be* in accordance with the established procedure. The counsel for respondent has brought into attention of this Court the map, a perusal of the same reveals that the parties

have been granted share along the road side. As far as the arguments of respondent regarding interference with possession is concerned, I find that the said interference is correct, some land of the parties now fell in the river and the same share of land had to be compensated by interfering with the possession. Order dated 30.04.2015 passed by lower Court is correct and hence, this Court is not inclined to interfere with the same. Appeal filed by the appellants finds no force. Appellants have filed the present petition to elongate the proceedings.”

Thereafter, the revision petition was also dismissed by the Divisional Commissioner on 15.07.2016, with the following order:-

“I have heard counsel for the respective parties and have perused the record of the case and, thus, I reached to the conclusion that this revision is not maintainable before this Court as the Assistant Collector 1st Grade has already issued Sanad Taqsim vide order dated 13.10.2014. It is well settled position that after issuance of Sanad Taqsim, no appeal or revision lies and the same can be challenged only before the Financial Commissioner or the High Court. In prevalent circumstances, proceedings before this Court are not maintainable. Hence, the present revision petition is dismissed.”

The Financial Commissioner has also dismissed the revision of the petitioner on 09.05.2017, with the following observations:-

“5. I have carefully gone through the complete record of the case and I have also heard both the counsels. Only issue involved is whether Sanad Takseem had been issued on 13.10.2014 or not. From the records of the case, it is crystal clear that the Sanad Takseem had been issued on 13.10.2014 which is placed on file at page-383. Infact, an appeal had been filed in this very case against the interim orders dated 21.08.2014 which was decided by the Collector, Kaithal on 11.11.2014 by when Sanad Takseem had already been issued. The Court of AC 1st Grade continued to hear the case based on this decision of the Ld. Collector, Kaithal dated 11.11.2014 unmindful of the fact that this very Court had already issued Sanad Takseem on 13.10.2014. Hence, all the proceedings

after issuance of Sanad Takseem by the Court of AC 1st Grade are nonest in law and as rightly submitted by the Counsel for the Respondents, duly backed by case law even acquiescence by the Respondents cannot confer any jurisdiction on the Court. Keeping in view these facts, the Revision Petition is hereby dismissed being devoid of merit.

6. As far as wrong statement by Shri P.S. Walia, Counsel for the petitioners dated 20.02.2016 before the Court of AC 1st Grade, Pundri is concerned, same is a clear case of misconduct. This case was first heard on 25.10.2016 when stay was granted and not at the time of filing on 18.10.2016. However, the Counsel for the petitioners expressed regret on the part of the Petitioners in this case at the time of hearing and with a warning not to repeat such action in future, this issue is closed.”

Although learned counsel for the petitioners has vehemently argued that the impugned orders are liable to be set aside but he has failed to make out a case for the purpose of interference by this Court especially at this stage regarding adjudication of the special objections filed against the *Naksha-Be* on 11.12.2014, in the wake of the concurrent finding recorded by the Courts below.

In view thereof, I do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

July 18, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No