

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

CWP No.24551 of 2013 (O&M)

Date of decision : 17.01.2017

Nirmal Singh

...Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

Present: Mr. Deepak Gupta, Advocate for the petitioner.

Mr. Yatinder Sharma, Addl. A.G. Punjab.

Mr. Inderjit Sharma, Advocate for respondent No.6.

AMIT RAWAL, J. (Oral)

The petitioner-Nirmal Singh is aggrieved of the impugned orders dated 22.06.2009 (Annexure P-13), dated 06.11.2009 (Annexure P-14), dated 03.03.2010 (Annexure P-15), dated 09.05.2012 (Annexure P-16), dated 21.05.2013 (Annexure P-17) to contend that in application moved by Manjinder Singh-respondent No.6 who is represented by Mr. Inderjit Sharma, Advocate, partition of 322 kanals and 17 marlas was sought. The Assistant Collector, Grade-I, Tehsildar, Bathinda-respondent No.5 vide order dated 10.10.2006 accepted the mode of partition.

Both the parties were not aggrieved of the mode of partition but while conducting khatauni pamaish (Annexure P-13), more area of land, of inferior quality, has fallen to the share of the petitioner than that of

Manjinder Singh and this fact is evident from the report dated 16.11.2007 of Kanungo Halqa Sangat, whereby it has been mentioned that khasra Nos.112-113-110-120-121-122 are Sandy i.e. of inferior quality. No doubt there is a tubewell bore of petitioner on khasra No.113/1 which is measuring 50 x 50 feet which has fallen to the share of the petitioner owing to possession but on going through the calculations of aforementioned khasra numbers which are of inferior quality as indicated in Annexure P-13, the details of which are given herein below, petitioner is seriously prejudiced on account of such loss:-

“FORM OF KHATONI MEASUREMENT

Partition case file – Manjinder Singh versus Nirmal Singh Village Gurusar Sainewala, Tehsil and District Bathinda

File No.:25/A1

Date of filing: 1.12.05

Area 322-17

Present Khatoni Number : 1		Name of Owner:- Manjinder Singh son of Sewa Singh son of Bishan Singh		
Previous Jamabandi Khewat Number :- 246				
Number of Mutation Register:-				
Previous Khasra Number	Present Khasra Number	Area with type of land	Mamla (tax)	Special remarks
123	123/1	7-14 Nehri		
124	124/1	8-18 Nehri		
125	125/1	11-15 Nehri		
118	118/1	6-1 Nehri		
114/1	114/1/2	1-19 Nehri		
115/1	115/1/2	0-16 Nehri		
119	119/2	4-14 Nehri		
120	120/2	9-3 Nehri		
121	121/2	6-13 Nehri		
119/1	119/1/2	3-8 Nehri		
120/1	120/1/2	6-12 Nehri		
121/1	121/1/2	5-11 Nehri		
122/1	122/1/2	4-4 Nehri		

Present Khatoni Number : 1		Name of Owner:- Manjinder Singh son of Sewa Singh son of Bishan Singh		
Previous Jamabandi Khewat Number :- 246				
122	122/2	5-3 Nehri		
Kitte 12	Kitte 2	82-10 Nehri		

Sd/- Halqa Kanungo

Halqa Sangat

FORM OF KHATONI MEASUREMENT

Partition case – Manjinder Singh versus Nirmal Singh

Village Gurusar Sainewala,

Tehsil and District Bathinda

Case Number: 25/124

Date of filing: 1.12.05

Area 322-17

<i>Present Khatoni Number : 2</i>		<i>Name of owner:- Nirmal Singh son of Sewa Singh son of Nirmal Singh 7/11 share, Inderjit Kaur, Mohinder Kaur, Rajinder Kaur, Sukhdev Kaur, successors of Sewa Singh son of Bishan Singh equal shares 4/11 share</i>		
<i>Previous Jamabandi Khewat Number:- 246</i>		<i>Name of the Cultivator:- Self Cultivator</i>		
<i>Name of Mutation Register:-</i>				
<i>Previous Khasra Number</i>	<i>Present Khasra Number</i>	<i>Area with type of land</i>	<i>Mamla (tax)</i>	<i>Special remarks</i>
<i>112</i>	<i>112/1</i>	<i>6-9 Nehri</i>		
<i>113</i>	<i>113/1</i>	<i>15-5 Nehri</i>		
<i>119/1</i>	<i>119/1/1</i>	<i>7-0 Nehri</i>		
<i>120/1</i>	<i>120/1/1</i>	<i>13-12 Nehri</i>		
<i>121/1</i>	<i>121/1/1</i>	<i>10-0 Nehri</i>		
<i>122/1</i>	<i>122/1/1</i>	<i>7-1 Nehri</i>		
<i>112</i>	<i>112/1/1</i>	<i>2-18 Nehri</i>		
<i>113</i>	<i>113/2</i>	<i>6-19 Nehri</i>		
<i>114/1</i>	<i>114/1/1</i>	<i>6-19 Nehri</i>		
<i>115/1</i>	<i>115/1/1</i>	<i>2-19 Nehri</i>		
<i>Kitte 10</i>	<i>Kitte 10</i>	<i>79-2 Nehri</i>		

Sd/- Daroga Singh Kanungo

Sangat”

On perusal of chart, it is submitted that petitioner is getting

more inferior area i.e. 41 kanals whereas Manjinder Singh has got 28 kanals 2 marlas. In my view, grievance of the petitioner is justified. Naksha and Khatauni Pamaish have not been prepared by taking into consideration the mode of partition.

Mr. Inderjit Sharma, learned counsel appearing on behalf of respondent No.6 submits that Commissioner and FC noticed that since petitioner is in possession of khasra No.113 measuring 15 kanals 16 marlas, though is of inferior quality, has to go to him on the basis of the possession but the Collector in paragraph No.4 of order dated 03.03.2010 noticed that khasra Nos.119, 120, 121, 122, which are also of inferior quality (Sandy) has been given to Manjinder Singh.

I have heard learned counsel for the parties and appraised the paper book.

I have gone through the impugned orders and as well as khatauni pamaish extracted above. No doubt, the Collector has mentioned about the factum of having given khasra Nos.119, 120, 121, 122 of inferior quality to Manjinder Singh but area has not been taken into consideration. More area of inferior quality has fallen to the share of the petitioner and lesser to Manjinder Singh, thus, khatauni pamaish, in my view, is not correct and all the orders passed thereon are also outcome of the illegality and perversity. Authorities below were enjoined to look into the area, also, as per mode of partition instead of pondering only on area.

Resultantly, impugned orders aforementioned are set aside including khatauni pamaish.

The Assistant Collector is directed to prepare khatauni pamaish

strictly in accordance with order (Annexure P-3) dated 10.10.2006, whereby mode of partition was suggested, as expeditiously as possible preferably within a period of three months from the date of receipt of certified copy of this order.

Writ petition stands allowed in aforementioned terms.

17.01.2017

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No