

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

**CWP No.18928 of 2017
Date of Decision: 23.08.2017**

Kiran Singh and others

....Petitioners

Vs.

Commissioner, Rohtak Division, Rohtak and others

....Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.R.S. Budhwar, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioners have invoked the extraordinary jurisdiction of this Court under Articles 226/227 of the Constitution of India for the purpose of issuance of a mandamus/direction to respondent No.1 to decide their revision bearing *ER No.5* titled as "*Ajmer Singh and others Vs. Faggu Ram and others*" pending before him since 5.10.2012 in which notice was issued on 18.10.2012.

In brief, the petitioners filed an application under Section 111 of the Punjab Land Revenue Act, 1887 (as applicable to Haryana) seeking partition of land measuring 93 kanals 15 marlas situated in village Fajalpur, Tehsil Indri, District Karnal. The application was filed on 1.7.2003. Mode of partition was proposed on 4.4.2007 and accepted on 9.5.2007. The Kanango, thereafter inspected the spot and submitted his report dated 22.9.2008 regarding *Naksha Bey*. The respondents filed objections to the preparation of *Naksha Bey*, which was dismissed by Assistant Collector IInd Grade, Indri vide its order dated 20.3.2009. The

said order was challenged by the respondents in appeal before the Sub Divisional Officer (C)-cum-Collector, Indri. The appeal was dismissed on 13.11.2009. The respondents then filed revision before the Commissioner, Rohtak Division, Rohtak, the revision was partly accepted on 5.8.2011 and the case was remanded back to the Assistant Collector, IInd Grade with a direction to decide the same within three months. Thereafter the Assistant Collector, 2nd Grade again decided the objections against *Naksha Bay* on 15.2.2012 against the petitioners and in favour of the respondents. Now it was the turn of the petitioners to challenge the order dated 15.2.2012 by way of appeal before the Collector, which was accepted on 25.9.2012. The order of the Collector was challenged by the respondents by way of revision bearing ER No.5 of 2012.

Learned counsel for the petitioners has produced the zimini orders, having been passed by respondent No.1/Commissioner from 8.2.2013 to 21.7.2017. It is submitted that now the case is fixed for 28.09.2017 for summoning of respondent No.1(d). It is further submitted that the grievance of the petitioners is that though the partition proceedings were initiated by them as far back on 1.2.2007 yet it is not making any headway inasmuch as they are still struck up at the stage of decision of objections regarding *Naksha Bey*. Another grievance of the petitioners is that respondent No.1 is not deciding the revision petition as most of zimini orders passed by him reflects that he had adjourned the case because of the reason that he was busy in administrative work. It is also submitted that four years have now been passed while the matter is pending before respondent No.1 and the petitioners could not wait any further for respondent No.1 to discharge his judicial function and thus

have approached this Court by invoking the supervisory jurisdiction of this Court under Article 226/227 of the Constitution of India.

I have heard learned counsel for the petitioners and also perused the zimini orders having been passed by respondent No.1 in which most of the time the case has been adjourned either for summoning the record or on the ground that the presiding officer was busy in administrative work.

The facts and circumstances of the case depict a sorry state of affairs. The judicial powers have been given to the revenue authorities, who are also discharging their administrative functions as administrator. It appears that they are not fixing the cases for the purpose of hearing on a particular day on which they can discharge their judicial functions in terms of the provisions of the Act and as a result thereof, the petitioners had to approach this Court by spending unnecessarily in this litigation. The big question is thus as to what should be done in these facts and circumstances?

There is no doubt in my mind that the approach of respondent No.1 is not judicious because he is not looking into the plight of the petitioners as they have to appear before him in order to get a decision in the matter which is posted. If respondent No.1 is so occupied in his administrative work, he should fix one or two specific days for the purpose of discharging his judicial functions so that the litigants may not have to suffer because of his absence from his seat time and again on account of administrative work. In this case, if the zimini orders, recorded by respondent No.1, as per which he had to adjourn the case on the ground of administrative work, are to be counted then the case has

been adjourned 11 times for the said purpose and rest for the purpose of summoning the record which has to come only from a distance of 20 kms. for which he could have passed an appropriate order or pulled up the lower administration for not sending record in time. These unnecessary adjournments causes delay in delivery of justice and also eroding the faith of litigant in the system.

Consequently, the present petition is allowed, even without notice to the respondents, with a direction to respondent No.1 to take up the matter of the petitioners seriously and decide the same in accordance with law as early as possible, preferably within a period of six months by giving short dates.

Since this situation is arising in many cases, which are coming to my Court very often, therefore, Registry is directed to send a copy of this order to the Chief Secretary, Government of Haryana for the purpose of his perusal and necessary action. He would also devise some mechanism, advising the lower revenue authorities, discharging their judicial functions, to decide the cases expeditiously and effectively.

Disposed of.

23.08.2017

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No