

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.21789 of 2017

Date of Decision: November 07, 2017

Jagdish

. . . . Petitioner

Vs.

Financial Commissioner & Principal Secretary to Govt. of Haryana and
others

. . . .Respondents

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

Present: Mr.Mani Ram Verma, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J.

The petitioner has challenged various orders passed by the Assistant Collector, Grade II, Adampur dated 21.3.2014, 25.8.2014, 27.1.2015 and 14.3.2015 and the order passed by the Financial Commissioner dated 13.7.2017.

Learned counsel for the petitioner has submitted that *Naksha Kha* has been ordered to be prepared without sanctioning mode of partition and also no opportunity was given to the petitioner to file objection to *Naksha Kha*.

I have heard learned counsel for the petitioner and perused the record.

On 11.3.2014, the order was recorded by the Court below to prepare the mode of partition and the case was adjourned to 21.3.2014 for objections to the mode of partition and summoning of *Naksha Kha*. On the adjourned date, the mode of partition was prepared. There was no request on behalf of the petitioner to file objection to the mode of partition,

therefore, the file was put up for summoning of *Naksha Kha* in terms of the mode of partition and the case was adjourned. On the adjourned date i.e. 15.4.2014, the Court recorded the order that *Naksha Kha* has not been received and adjourned the case to 12.5.2014 to await *Naksha Kha*. On the adjourned date i.e. 13.8.2014, *Naksha Kha* was received and the case was thereafter adjourned to 25.8.2014, giving an opportunity to object to *Naksha Kha*. On the adjourned date i.e. 25.8.2014, no objection was filed to *Naksha Kha* and was thus sanctioned as it is and parvana (order) was issued to Kanungo Halqa for preparation of *Naksha Zeem*. Ultimately, the *Naksha Zeem* was also received and the Sanad Partition was prepared.

The argument raised by learned counsel for the petitioner that the mode of partition was not sanctioned cannot be accepted because it is specifically mentioned by the court below in its order that mode of partition has been prepared. If the petitioner had any doubt about the mode of partition he could have recorded in the order about his dissatisfaction and since there is no such objection or even any opportunity to seek objection was taken, the file was ordered to be put up for summoning the *Naksha Kha* in terms of the mode of partition prepared. Similarly, after the preparation of *Naksha Kha* specific opportunity was given to the petitioner to file objection to *Naksha Kha*. No objection was filed on the next date of hearing and thus *Naksha Kha* was sanctioned and *Naksha Zeem* was sought. If the petitioner had any objection against the proceedings much less the zimini orders passed by the Court below, he should have raised an objection before the same Court by filing affidavit alleging that the zimini order has been wrongly recorded otherwise the order passed by the Court below has to be taken to be correct as has been held by the Supreme Court in the case of

*“State of Maharashtra Vs. Ramdas Shrinivas Nayak and another” 1982 (2)
SCC 463.*

Thus, in view of the above, there is hardly any reason with this
Court to interfere in this petition and as such the same is hereby dismissed.

November 07, 2017
Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No