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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25615 of 2017
Date of decision:06.12.2017

Vidya Sagar and others ...Petitioners

Versus

Financial Commissioner (Appeals), Punjab and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. D.S.Kahlon, Advocate,
for the petitioners.

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Rakesh Kumar Jain, J.

The respondents no.5 to 7 filed an application under Section 111 of the Punjab Land Revenue Act, 1887 (hereinafter referred to as the "Act") for seeking partition of the land measuring 35 kanal 02 marlas, situated in the revenue estate of village Ferozepur Kalan, Tehsil and District Pathankot. The mode of partition was sanctioned on 20.05.2002 and, thereafter, the Assistant Collector 1st Grade, Pathankot passed the order of partition on 20.03.2008 and certificate of partition (S*anad Taqsim)* was issued on 22.04.2008. The appeal filed against the order of partition was dismissed by the Collector vide order dated 15.07.2010, against which the petitioners filed a revision before the Divisional Commissioner who, vide his order dated 22.09.2014, allowed the revision petition and remanded the case back to the Assistant Collector 1st Grade, Pathankot, to prepare *Naksha Arra* as per the mode of partition and then pass the final order within a period of three months. Aggrieved against the said order, respondents no.5 to 7 filed an appeal before the Financial Commissioner, which was allowed vide order dated 22.03.2017 on the ground that the *Sanad Taqsim* was issued on 22.04.2008, the appeal was filed by the petitioners before the Collector later than that and the Divisional Commissioner exceeded his jurisdiction in allowing the revision petition, ignoring the fact that the *Sanad Taqsim* has already been issued and he has no jurisdiction and such matters can only be decided by the Financial Commissioner (Revenue). He also recorded in his order that this position has been admitted by both the parties. However, while setting aside the order of the Divisional Commissioner, he also gave liberty to the present petitioners to challenge the instrument of partition, i.e. *Sanad Taqsim,* before the Competent Court of law.

I have heard learned counsel for the petitioners who has submitted that the partition has not been effected as per the mode of partition and has referred to the site plans attached as Annexures P-7 and P-8 but the fact remains that the petitioners have not challenged the *Sanad Taqsim* in terms of the order passed by the Financial Commissioner who has categorically recorded a finding that the Commissioner, who had passed the order in favour of the petitioners, was not having the jurisdiction to set aside the order of the Collector especially when the *Sanad Taqsim* has already been issued and that the petitioners should have challenged the *Sanad Taqsim* before the appropriate Court of law, i.e. the Financial Commissioner (Revenue) and not the Divisional Commissioner.

The said course is still open to the petitioners but insofar as the present petition is concerned, the same is hereby dismissed in view of the finding recorded by the Financial Commissioner in para no.7 of the impugned order.

December 06, 2017 **(Rakesh Kumar Jain)**
vinod* **Judge**

Whether speaking / reasoned : Yes/No
Whether reportable : Yes/No