

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

CWP No.28226 of 2017
Date of Decision: 13.12.2017

Sh. Kalyan Singh

. . . . Petitioner

Vs.

State of Haryana and others

. . . . Respondents

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

Present: Mr.Surinder Kumar Daria, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (ORAL)

This petition is filed by one of the co-sharers being aggrieved against the orders passed by the revenue authorities vide which the joint khewat has been partitioned.

Learned counsel for the petitioner has submitted that the petitioner was proceeded against *ex parte* vide order dated 9.1.2015. Thereafter, an application was filed by respondents No.6 to 11 for seeking amendment in the main application for partition in order to aver that the land be partitioned by considering the nature of the land and its value. The *ex parte* proceedings against the petitioner were set aside on 29.5.2015. He recorded the statement asking for partition by keeping the possession intact. It is further submitted by counsel for the petitioner that the mode of partition was prepared on 21.7.2016. The petitioner did not challenge the mode of partition which was accordingly sanctioned and thereafter Naksha Bay was prepared against which also there was no objection. Consequently, the Assistant Collector, 1st Grade passed the order of partition and Sanad

Taksim was prepared on the stamp paper. The petitioner thereafter challenged the order of the Assistant Collector, 1st grade by way of appeal which was dismissed and subsequently, he filed revision before the Commissioner which was also dismissed on the ground that the Court does not have the jurisdiction after the sanad taksim has been prepared. Consequently, the petitioner has approached this Court by way of present petition in which learned counsel for the petitioner has vehemently argued that the application filed by respondents No.6 to 11 for seeking amendment in the original application for partition was not decided one way or the other nor they were given any kind of notice and the land has been partitioned on the basis of its nature and value.

Learned counsel for the petitioner is pertinently asked during the course of hearing as to whether he had raised any kind of objection against the mode of partition? In reply, it is submitted that no objection was raised to the mode of partition and also does not dispute that it was a condition in the partition that the land in dispute shall be partitioned by keeping in view its nature and value. Had the petitioner been aggrieved against the partition of the land on the basis of its nature and value, he had the opportunity to raise objection to the mode of partition, which would have been considered by the Assistant Collector, 1st Grade and in case had any adverse decision been taken against him by the Assistant Collector, 1st Grade on his objection, he would have filed appeal before the Collector.

In the absence of any kind of objection raised by the petitioner before the Collector, the petitioner, now after the conclusion of the entire proceedings, only on the basis of the application filed by respondents No.6

to 11 for seeking amendment in the original application for partition, cannot challenge the mode of partition, which is an after thought.

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

13.12.2017 <i>Vivek</i>		(RAKESH KUMAR JAIN) JUDGE
	<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
	<i>Whether reportable</i>	<i>Yes/No</i>