

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

COCN No. 73 of 2018 (O&M)

Date of Decision: 15.01.2018

Gyasi Ram

..... Petitioner

Versus

Vijay Yadav, Assistant Collector First Grade,
Sohna District Gurugram

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Amit Jain, Advocate for the petitioner.

JASWANT SINGH, J. (ORAL)

Petitioner-Gyasi Ram being a co-sharer alongwith a Builder had challenged the partition proceedings based on alleged compromise by filing a writ petition bearing *CWP No. 445 of 2010*, which was allowed vide order dated 14.08.2012 (**Annexure P-1**) by directing the Assistant Collector, First Grade, Sohna, District Gurugram, to decide the partition proceedings afresh after giving proper opportunities and hearing to all the co-sharers.

The instant contempt has been filed with the allegations that the spirit of the order dated 14.08.2012 (**P-1**) has been violated by the respondent/Assistant Collector concerned by passing the order dated 11.10.2017 (**Annexure P-3**), whereby he has ordered the preparation of *Naksha "Be"* instead of started the proceedings from the beginning.

After hearing counsel for the petitioner, this Court is of the opinion that no contempt has been committed.

The operation portion of the order dated 14.08.2012 (**P-1**)

“ *The parties, through their counsel, are directed to appear before the Assistant Collector Ist Grade on 5.9.2012, who shall consider the case of partition afresh after giving proper opportunity of hearing to all the relevant parties and co-sharers. In case any compromise is there, the parties would be at liberty to plead the same. If the petitioner or any one else wants to contest this compromise, he or they would also be at liberty to do so. The partition would be strictly done in accordance with law.*

It may also be noticed that the order of partition was set aside as the petitioner had not been properly served. The petitioner would be at liberty to raise all the pleas available to him in accordance with law.

The writ petition is accordingly allowed in the above terms. ”

A perusal of the order dated 11.10.2017 **(P-3)** reveals that the same has been passed by hearing the parties, including the petitioner. The alleged mutual compromise has not been relied upon, in fact after passing of the aforesaid order dated 14.08.2012 **(P-1)**, a Mutation No. 23675 has been entered and sanctioned, whereby the entire chunk of land of the *khewat* has been recorded as *Mushtraka Malkaan*, i.e., body of the proprietors. It is further noticed in the order that as the case for partition was pending since 20 years, both the parties had given their no objection on the mode of partition and thereby leading to the preparation *Naksh “Be”*.

In view of the above, no willful disobedience of the order dated 14.08.2012 **(P-1)** is made out.

Dismissed.

January 15, 2018

'dk kamra'

**(JASWANT SINGH)
JUDGE**

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>