

(1)

CWP-1312-2016 &
CWP-14066-2016

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: November 26, 2018

CWP-1312-2016

Omkar & another

...Petitioners

Versus

State of Haryana & others

...Respondents

(2)

CWP-14066-2016 (O&M)

M/s Shree Krishna Estates through its Proprietor

...Petitioner

Versus

State of Haryana & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ajay Jain, Advocate,
for the petitioner in CWP-1312-2016 &
for respondents No.2 and 3 in CWP-14066-2016.

Mr. Munish Jolly, Advocate
for the petitioner in CWP-14066-2016 &
for respondent No.4 in CWP-1312-2016.

Mr. Manish Dadwal, AAG, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-8021-CWP-2017

Annexures P-19 and P-20 (colly) are taken on record, subject to
all just exceptions.

Application stands disposed of.

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By this order, I propose to dispose of CWP-1312-2016, titled as

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'Omkar & another Vs. State of Haryana & others', and CWP-14066-2016, titled as 'M/s Shree Krishna Estates through its Proprietor Vs. State of Haryana & others', at the request of the learned counsel for the parties.

2. These two writ petitions have been filed challenging the order dated 21.10.2015 passed by the Financial Commissioner, Haryana, whereby, petitioners in CWP-1312-2016 had preferred two revision petitions i.e. ROR Nos.259 and 260 of 2013/2014, which had arisen out of two separate applications for partition preferred by M/s Shree Krishna Estates, who is petitioner in CWP-14066-2016 and respondent No.4 in CWP-1312-2016. In the said partition proceedings having attained finality with the preparation of *sanad taksim* vide order dated 03.11.2009 and 25.08.2009, which orders had been given effect to by the Competent Authority(s), which aspect was not disputed in the light of the fact that *sanad taksim* had been issued and acted upon, the jurisdiction of the revisional Court as well as that of this Court as per the settled law is limited to the extent of giving effect to the mode of partition.

3. The fact as it stands is that the partition had taken place and none of the parties objected to the same at that stage, with that being the position, revision petitions which have been preferred by the petitioners in CWP-1312-2016 i.e. ROR Nos.259 of 2013 and 260 of 2014 could not have been interfered with by the Financial Commissioner, Haryana. The order dated 21.10.2015, therefore, passed by the Financial Commissioner, Haryana, in ROR No.259 of 2013 cannot be said to be not in accordance with law, whereas, the order passed in ROR No.260 of 2014 is bad in law.

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The effect thereof is that the order of *sanad taksim* passed by the Competent Authority(s) which had attained finality is to be upheld and therefore, does not call for any interference in the matter.

4. Assuming that the power was available with the Financial Commissioner, Haryana, the order passed in ROR No.259 of 2013 being in accordance with law does not call for any interference, meaning thereby, CWP-1312-2016, titled as 'Omkar & another Vs. State of Haryana & others', deserves to be dismissed, whereas, CWP-14066-2016, titled as 'M/s Shree Krishna Estates through its Proprietor Vs. State of Haryana & others' where the challenge is to the order relating to ROR No.260 of 2014 has to be allowed by setting aside the observations in this regard in the order dated 21.10.2015 passed by the Financial Commissioner, Haryana.

5. Ordered accordingly.

November 26, 2018
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No