

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

**Civil Writ Petition No.12014 of 2018
Decided on : 07.08.2018**

Dharm Singh and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. S.S. Sahu, Advocate
for the petitioners.

G.S. Sandhawalia, J. (Oral)

The present writ petition under Article 226/227 of the Constitution of India has been filed against the order dated 27.03.2018 (Annexure P-11) passed by the Commissioner, Hisar Division, which confirms the order dated 07.03.2018 (Annexure P-10) passed by the Sub-Divisional Officer-cum-Assistant Collector, Ratia, District Fatehabad, which in turn upholds the order of the Assistant Collector 2nd, Ratia dated 15.02.2017 (Annexure P-9).

Counsel for the petitioners has vehemently argued that the objections (Annexure P-6) had been raised regarding *Naksha Kh* regarding the fact that land was falling on the bank of Ghaggar River, which had given to the Roop Singh and his family members and less land had been given on the road. It was further contended that no facilities of *Rasta* and water course had been given, which was against the settled Mode of Partition on 20.04.2016 (Annexure P-4) and, thus, it is submitted that order passed by the authorities below are not sustainable.

A perusal of the paper-book would go on to show that the petitioners were arrayed through their predecessor-in-interest Roop Singh as respondent No.17 in the partition proceedings initiated by respondents No.5 and 6 Karamjit Kaur and Naib Singh of land measuring 1322 kanals 5 marlas. They were as many as 40 share holders, apart from Karamjit Kaur and Naib Singh for the land falling in village Kamana, Tehsil Ratia, District Fatehbad. The statement of the respondents was also recorded on 20.04.2016 to the extent that a separate *Kura* was also to be carved out as per their possession. As per the Mode of Partition prepared (Annexure P-4), the facilities of water course, water and all *Kuras* were to be made on the land falling on the road and one karam wide for water course and two karam wide for *Rasta* was to be given as per their respective shares.

Against *Naksha Kh* objections were filed by the petitioner-Roop Singh (Annexure P-6) that some area out of the land was falling on the bank of Ghaggar River, which had been given to him and his family members and there was more valuable land falling along the road, which was also to be allotted. The plea was taken that they had not been allotted the land as per his share. The land comprised in Khasra No.34/23 and 52//3, which had been given to the respondent had no facility of *Rasta* and water course. It was further pleaded that numerous *Kuras* had been carved out.

The said objections were replied by the private respondents that the Naksa had been prepared by maintaining the possession of the parties and the above said khasra were in their possession and there is no

requirement for separate possession. The *Kura* which had been carved out is correct as per rules and objections have been filed only to delay and prolong the partition proceedings.

The Assistant Collector partly allowed the objections on 15.02.2017 (Annexure P-9) by directing that the *Rasta* be provided and the amended *Naksha* showing passage be placed on record and rest of the objections were, accordingly, rejected.

Against the said order an appeal was preferred before the Collector, Ratia in which it was noticed that as per the statement of the petitioner himself he had sold the said khasra numbers 34/23 and 52//3 and, thus, there was no need to provide path to this land. It has further been noticed that the land abutting the road had been given as per his share and resultantly the appeal was dismissed.

Resultantly, the revision before the Commissioner was filed, which was dismissed on 27.03.2018 (Annexure P-11), while noticing the factum of the sale of the two khasra numbers, whereby there was a grouse that passage had not been provided. The map which has also been placed on record (Annexure P-8) was also scrutinized by the Commissioner to demonstrate that one Manjeet Singh co-sharer had been land closer to Ghaggar River, which was shown in blue colour and, therefore, the petitioners could not have any grouse as the river water would first destroy Manjeet Singh's land first. Similarly, it was noticed that other co-sharers which had been shown in blue and yellow colour they had not been given the land as per their shares, whereas the petitioner-Roop

Singh had got the road front as per his share.

A perusal of Annexure P-8 colly, the site plan also would go on to show that to that effect that the petitioners who claimed to be along with Ranpal and the land as shown Pink had also got front abutting the road and, therefore, the argument which has been raised by the counsel for the petitioners that they had given less valuable land in comparison to others is without any basis. Even in the objections as such no details as such has been given as to what was the percentage of share which was less that was falling on the main road. Another argument which has been raised regarding the water course of two khasra numbers is of no consequence any more, since the petitioners have alienated the land of that portion which has admitted by the petitioner before the authorities below. Accordingly, the objections which have been raised by the petitioners are without any basis and only an attempt is being made to delay the inevitable.

Resultantly, the orders passed by the authorities below do not suffer from any infirmity, which would warrant interference by this Court under Article 226/227 of the Constitution of India. The writ petition is, accordingly, dismissed in limine.

AUGUST 07, 2018

Naveen

**(G.S. SANDHAWALIA)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No