

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

**CWP No.18257 of 2017 (O&M)
Date of Decision:15.10.2018**

Smt. Permeshwari and another

...Petitioners

Versus

The State of Haryana and others

...Respondents

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

Present: Mr. Pankaj Mehta, Advocate
for the petitioners.

G.S. SANDHAWALIA, J. (ORAL)

CM-13535-CWP-2017

Application under Section 151 of CPC for placing on record Annexure P-8, is allowed subject to all just exceptions. The same is taken on record. Office to tag the same at appropriate place.

CM stands disposed of.

CWP No.18257 of 2017

The petitioners challenge the order dated 28.10.2016 (Annexure P-7) passed by the Assistant Collector, IInd Grade, Adampur, District Hisar whereby the Sanad Taksim had been prepared accepting the Naksha "Ga" and similarly the order dated 20.09.2016 (Annexure P-4) also of the said authority which was subject matter of challenge in the partition proceedings. The same were preferred by respondent Nos.3 and 4 for land measuring 53 kanals 13 marlas situated in village Bhana, Tehsil Adampur, District Hisar. As per the report dated 26.12.2015 (Annexure P-8), summons were served upon the petitioners and by virtue of which on 29.12.2015 (Annexure P-1) ex-parte proceedings were effected upon them

whereby the Assistant Collector recorded the fact that they have not come

present even after affecting service upon them in which proceedings they were arrayed as respondent Nos.1 and 4.

Counsel for the petitioners has mainly attempted to argue that service was not proper and partition proceedings have been at their back and thus raises challenge to the proceedings on this ground.

A perusal of the memo of parties of the partition application would go on to show that Jodha is the common predecessor-in-interest of the parties and Savitri and Neelam also refused to thumb mark the summons and therefore, had been proceeded against ex-parte. The petitioners thus having been served cannot now turn around and say that the partition proceedings as such are bad in any manner and they are adversely affected once they have opted not to join the proceedings. The Sanad Taksim had also been prepared on 28.10.2016 (Annexure P-7). A perusal of Annexure P-7 would go on to show that partition was to be made effective from 13.10.2016 and land had to be vacated after harvesting kharif crop, 2016. The present writ petition has been filed after a period of 2 years from the said date and therefore, is also suffering from the ailment of delay and laches. The private respondents cannot be held to ransom by the petitioners by resorting to challenge the proceedings as such at a belated stage and on account of inaction of the petitioners themselves.

In such circumstances no case is made out to call upon them. Resultantly, finding no merit in the present writ petition and the same is dismissed in limine.

15.10.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

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