

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

**CWP No.18036 of 2018 (O&M)
Date of Decision:03.10.2018**

Sheela and othersPetitioners

Versus

The State of Haryana and others ...Respondents

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

Present: Mr. Vikram Punia, Advocate
for the petitioners.

G.S. SANDHAWALIA, J. (ORAL)

CM-14542-CWP-2018

Application under Section 151 of CPC for placing on record affidavit as Annexure P-7, is allowed subject to all just exceptions. The same is taken on record. Office to tag the same at appropriate place.

CM stand disposed of.

CWP No.18036 of 2018

The present writ petition has been filed under Articles 226/227 of the Constitution of India. The challenge by the petitioners who initiated the partition proceedings for 31 kanals of land is to the order dated 10.05.2018 (Annexure P-6) passed by the Commissioner whereby he allowed the revision petition of Hoshiyar Singh (respondent No.5 herein) and remanded the matter to the Assistant Collector. The reasoning given for passing the said order reads as under:

*“4. The present matter was taken up today and Ld.
Counsels for both the parties were heard at length*

and the file was also perused. The Collector, Sonapat has in his order dated 26.03.2018 concluded in only one para that there is no force in the grounds taken in the appeal due to which it is without merits and the same is being dismissed. This is not a speaking order. The lower Court was required to give its reasons in support of the order dated 29.08.2017 because the revision petitioner was not granted the opportunity to file objections against Naqsha Kha in ex-parte proceedings. It seems that the order of the Collector has been passed in haste. Therefore, the revision petition is accepted in the interest of justice. The case is remanded to the Assistant Collector Ist Grade, Sonapat with the direction that he may conduct a spot inspection of the disputed land himself. The names and mobile numbers of the persons who are present at the spot may be noted down and their signatures may be taken. At the time of spot inspection the photographs of the site may also be taken in which the presence of the site inspection officer at the site may also be shown. Thereafter, the Naqsha Kha may be finalized after hearing the revision petitioner and the other party. The order of the Collector dated 26.03.2018 is set aside. Both the parties will appear before the Court of Assistant Collector Ist Grade and Tehsildar, Sonapat on 22.06.2018. The file may be consigned to the record room after due compliance.”

Counsel for the petitioners has vehemently argued that the private respondent as such had been granted opportunity against Naqsha Kha and therefore, the impugned order was not justified. It is further submitted that Collector as such had rightly dismissed the appeal.

A perusal of the file would go on to show that Naqsha Kha was finalized by the Assistant Collector on 29.08.2017 (Annexure P-1).

The private respondent filed the appeal on the ground that no opportunity had been granted to file objection. It was the grouse that the fact of proceedings was conveyed on 22.08.2017 and the case was listed on 24.08.2017. The Collector directed to put up the file on 27.02.2018 after granting of the said opportunity to present an objection vide order dated 26.02.2018 (Annexure P-3). Thereafter the order was passed by the Collector on 26.03.2018 (Annexure P-4) dismissing the appeal and directing the parties to appear before the Assistant Collector on the same date for further proceedings.

The Assistant Collector surprisingly in a sheer display of efficiency also finalized Sanad Taksim on the same date i.e. 26.03.2018 (Annexure P-4). The speed with which the petitioners have been able to get the partition proceedings finalized shows that the Commissioner was well justified in remanding the matter and directing that spot inspection along with all the persons and photographs of the site including the officers be taken and after coming to the conclusion that the order of the Collector was without any reason and was not a speaking order. From the above, it is thus apparent that the Collector was acting with haste at the cost of the private respondent and trying to get completed the partition proceedings which would be the interest of the petitioners.

It is thus apparent that the Commissioner was well justified in exercising his revisional powers to which Mr. Vikram Punia, Advocate does not and cannot have an answer.

In such circumstances, since the matter has only been remanded for proper spot inspection as to see whether the objections as such were justified of the private respondent, no prejudice has been

caused to the petitioners.

Resultantly, there is no merit in the present writ petition and the same is dismissed in limine.

03.10.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

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