

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

CWP No.20996 of 2017(O&M)

Date of Decision: 16.11.2018

Gurmeet Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Rajiv Joshi, Advocate
for the petitioner.

Ms. Sudeepti Sharma, Addl.A.G. Punjab.

Mr. Sunil Chadha, Senior Advocate with
Mr. Chetan Bansal, Advocate
for respondent No.5.

Ms. Ramneeq Kaur, Advocate
for respondent No.7.

TEJINDER SINGH DHINDSA J.(ORAL)

CM No.8893-CWP-2018

Application is allowed as prayed for.

Replication to the written statement filed by respondent No.5,
is taken on record.

Disposed of.

Main case

Gurmeet Singh-petitioner has filed the instant petition under Article 226 of the Constitution of India, raising a challenge to the “Naksha Eri” dated 08.03.2017 (Annexure P-7) and Instrument of Partition (Annexure P-9) passed by the Assistant Collector Ist Grade, Sub-Tehsil Majri, District S.A.S. Nagar (Mohali).

During the course of arguments today and in pursuance to a preliminary objection raised by learned senior counsel representing respondent No.5, Mr. Joshi, learned counsel representing the petitioner would concede that there is a statutory remedy of appeal available to the petitioner under Section 16 of the Punjab Land Revenue Act against the Sanad Takseem. He, however, has voiced an apprehension that such remedy may not be efficacious in the peculiar facts and circumstances of the case inasmuch as it has been specifically asserted that proceedings regarding partition had been carried out *ex parte* and that respondent No.5 being a coloniser has forcibly taken possession under the garb of the *ex parte* partition order.

This Court at the stage of preliminary hearing of the petition i.e. on 04.10.2017 had directed respondent No.5 to maintain status quo with regard to construction as it existed on the date of passing of the order.

In the considered view of this Court, the petitioner ought to avail of his alternate statutory remedy provided under Section 16 of the Punjab Land Revenue Act.

Accordingly, instant petition is disposed of in terms of granting liberty to the petitioner to file a revision petition against the final Instrument of Partition within a period of four weeks from today.

In the eventuality of any such petition, being preferred by the petitioner, preliminary hearing in respect thereof be conducted within a period of six weeks thereafter.

To allay the apprehension put forth by Mr.Joshi, learned counsel representing the petitioner, it is directed that the interim directions issued by this Court on 04.10.2017 as regards respondent No.5-coloniser maintaining status quo with regard to construction on the property in

question would continue to operate till the stage of preliminary hearing before the Financial Commissioner, Revenue and thereafter would be subject to further orders that may be passed during the course of the revision petition.

Writ petition disposed of.

It is further clarified that this Court has not examined the case on merits.

(TEJINDER SINGH DHINDSA)
JUDGE

November 16, 2018

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No