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

**Civil Writ Petition No.21140 of 2018
Decided on : 27.08.2018**

Harpreet Kaur

... Petitioner

Versus

State of Haryana and others

... Respondents

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

Present : Ms. Sonia G. Singh, Advocate
for the petitioner.

Mr. Ashish Gupta, Advocate
for the caveator/respondents No.5 to 9.

G.S. Sandhawalia, J. (Oral)

The petitioner who was arrayed as respondent No.4 in the partition proceedings challenges the order dated 09.07.2018 (Annexure P-13), vide which the Financial Commissioner has dismissed the revision of the petitioner on the ground of maintainability under Article 226/227 of the Constitution of India. Similarly, the order dated 22.03.2018 (Annexure P-12) passed by the Collector (wrongly mentioned as Commissioner) has also been challenged, wherein the *Sanad Takseem* issued was upheld is also under challenge.

Counsel for the petitioner has vehemently argued that Rajwant Kaur and Jaswinder Kaur and Balwinder Kaur wives of respondents No.7 and 8, Kabal Singh and Shamsher Singh had purchased the land measuring 16 marlas on 16.04.2012, during the pendency of the partition proceedings and, therefore, the petitioner has been prejudiced as such.

It is pertinent to notice that the petitioner was present before the revenue authorities, whereby the Mode of Partition had been prepared on 17.02.2012 (Annexure P-2) and the partition of the land was to be done by disturbing the possession and as per nature of the land. On 06.05.2013 (Annexure P-5) before the Assistant Collector 1st Grade, the vendees had come present and raised objections on the *Naksha Bay* and directions were issued that the same be amended, so that the land could be given in the joint *Khewat*.

A perusal of the map (Annexure P-6) would go on to show that petitioner-Harpreet Kaur was given her share and in pursuance of the amendment, the same had been modified as per Annexure P-7 and she had been given the chunk of land which is shown in Purple colour and which is in one consolidated tract. She chose not to appear on 31.05.2013, when the proceedings had been fixed and her objections had already rejected on 06.05.2013 (Annexure P-5). Accordingly, the *Naksha Bay* was accepted and file was ordered to be produced on 18.06.2013 for *Naksha Jeem*, as per order dated 31.05.2013 (Annexure P-10). The *Sanad Takseem* then, was accordingly, prepared vide order dated 07.10.2013 (Annexure P-11).

The petitioner chose to sleep over her rights and only filed an appeal after a period of 3½ years on 20.04.2017, which was dismissed by the Collector on 22.03.2018 (Annexure P-12) on the ground that the same was not maintainable, as the *Sanad Takseem* had already been issued. The revision was also moved, but the same was dismissed by the Financial Commissioner on 09.07.2018 (Annexure P-13), on the ground that an instrument of partition as required under Section 121 of the Act had been sanctioned by the Assistant Collector 1st Grade vide order dated 07.10.2013 and, therefore, no appeal or revision was maintainable. In view of the Division Bench judgment of this Court passed in **'Ranbir Singh Vs. Financial Commissioner, Haryana & others' 2005 (3) PLR 519**, no fault can be found in the order of the Financial Commissioner also as the appeal had been filed before the Collector, whereas it was for the petitioner to approach the Financial Commissioner or this Court directly against the preparation of the *Sanad Takseem*.

Having failed to do so, no fault can be found in the findings which have been recorded that the proceedings were not maintainable. The above facts go on to show that petitioner chose to stay back from the proceedings which were proceeded ahead and, therefore, cannot now find fault in the partition proceedings after the limitation had expired.

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

(G.S. SANDHAWALIA)
JUDGE

AUGUST 27, 2018
Naveen

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*