

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

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**CIVIL WRIT PETITION NO.10783 OF 2019
DATE OF DECISION: SEPTEMBER 18, 2019**

Jaimal and another

.....Petitioners

VERSUS

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Manoj Kumar Taya, Advocate,
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court, challenging the order dated 10.09.2018 (Annexure P-8) passed by the Financial Commissioner, Haryana, whereby revision petition preferred by them against the orders dated 09.03.2017, 30.03.2017 and 27.04.2017 (Annexure P-7) passed by the Assistant Collector Ist Grade, Pundri, vide which the partition proceedings have been concluded, stands dismissed.

It is the contention of learned counsel for the petitioners that the proceedings, which have been concluded by the Assistant Collector Ist Grade, Pundri, are the outcome of total fraud as someone has impersonated himself as petitioner No.1 and has forged his signatures. He contends that as a matter of fact on appearance before the Assistant Collector Ist Grade on 15.01.2015, the petitioners were assured by the private respondents that the partition would be concluded by mutual consent after taking them into

confidence. On the basis of assurance of the co-sharers, the petitioners did not appear in the partition proceedings. He asserts that by taking benefit of the belief and faith on the part of the petitioners upon the co-sharers, they, in connivance with the revenue officials, have proceeded to finalize the partition proceedings. At various stages, no objection on the part of the respondents (petitioners herein) has been mentioned whereas the petitioners were not even aware of such proceedings and their consent appears to have been recorded without their knowledge and rather on the basis of forged signatures and by impersonation. He, thus, contends that the proceedings before the Assistant Collector Ist Grade, Pundri, were sham and not bonafide proceedings and, thus, the same cannot sustain. He, on this basis, states that the Financial Commissioner, Haryana, has failed to appreciate these facts and has proceeded to dismiss the revision petition preferred by the petitioners. He further states that at the time when the order dated 10.09.2018 (Annexure P-8) was passed by the Financial Commissioner, Haryana, the petitioners were not in possession of the death certificate of one of the co-sharer, namely, Subhash, who has also been shown to have been present at the time of partition proceedings and his signatures have also been forged. He, therefore, contends that the impugned order dated 10.09.2018 (Annexure P-8) passed by the Financial Commissioner, Haryana, as also the *Sanad Taksheem* dated 27.04.2017 (Annexure P-7) passed by the Assistant Collector Ist Grade, Pundri, are not sustainable and deserve to be set-aside.

I have considered the submissions made by learned counsel for the petitioners and with his assistance have gone through the records of the case.

The Financial Commissioner in its order dated 10.09.2018, after considering the arguments of learned counsel for the petitioners, which are the same as in the present case, in Para 3 of the said order observed as under:-

“I have duly considered the arguments of the petitioner, perused the relevant record and also examined the impugned orders. The petitioner in the revision petition has impugned the Naksha `Bey' dated 09.03.2017, Naksha Zeem dated 30.03.2017 and Sanad Taksim dated 27.04.2017 specifically on the ground that the mandatory procedure for the service of the co-sharer has not been followed by the Assistant Collector while conducting the partition proceedings and the partition proceedings have been concluded at the back of the petitioner. However, it is an admitted fact by the petitioners that notice was served upon them and they themselves have absented from the proceedings on the assurance given by the respondents that the partition will be conducted by mutual consent. Since, the petitioner wilfully did not attend the partition proceedings, they cannot contend now that the partition proceedings have been conducted at their back. The service of the co-sharer was properly effected after following the due procedure. The petitioners have also contended that the respondents have forged their signatures while accepting the Nakhsa `Bey' and other proceedings but nothing substantial have been shown by the petitioners in support of their contention. Mere recitation to this effect will not be sufficient. The petitioners did not lodge

any complaint with police or initiate action after coming to know that their signatures had been forged. This contention seems to be an afterthought.”

Nothing has been placed on record, which would dislodge the findings as have been recorded by the Financial Commissioner, Haryana with regard to the action taken by the petitioners in case there was a fraud played on them or someone had impersonated or forged their signatures. Nothing is there to substantiate the contention of the petitioners that the signatures of petitioner No.1 were forged. Mere assertion on the part of the petitioners would not substantiate the said contention.

Keeping in view the above facts and circumstances as also the fact that initially the petitioners had been duly served in the proceedings and thereafter had absented themselves, the plea that they were not served or were required to be served again is without any basis and justification. In the absence of any evidence to substantiate the contention and the bare assertion of the petitioners with regard to forging of signatures or impersonation, the impugned orders cannot be said to be illegal.

The writ petition, being devoid of merit, therefore, stands dismissed.

September 18, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No