

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

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Civil Writ Petition No.14128 of 2019 (O&M)

Date of Decision: July 16th, 2019

Jaswant Singh and others

...Petitioners

Versus

Assistant Collector, IInd Grade-cum-Tehsildar, Sub-Tehsil Bass,
District Hisar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. R.S. Kundu, Advocate
for the applicants-petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-10081-CWP-2019

Prayer in this application is for placing on record the coloured map as Annexure P-6 in compliance of order dated 24.05.2019.

Application is allowed subject to just exceptions.

Coloured map Annexure P-6 is taken on record.

CWP-14128-2019

Petitioners have approached this Court challenging the order dated 28.01.2019 (Annexure P-5) passed by the Assistant Collector 2nd Grade-cum-Tehsildar, Sub Tehsil Bass, District Hisar-respondent No.1, whereby *sanad taksim* has been issued in a partition application between the petitioners and respondents 2 to 7.

2. It is the contention of learned counsel for the petitioners that as per the mode of partition which has been finalised between the parties, each of the shareholders was required to be provided with same quality of land in equal share. It was further mentioned that in case of any deficiency, it would be completed from the abutting area. Possession could also be broken. *Rasta* and water of irrigation would be taken into consideration but

these aspects have not been given effect to as far as the share which has been allotted to the petitioners. It is asserted by him with reference to the site plan which has been appended along with the impugned order that the land which has been allotted to the petitioners is far away from the canal minor and, therefore, there would be more time required for the water to reach the land of the petitioners as his land is at the farthest end of the partitioned land. He, therefore, contends that the partition as carried out by way of *sanad taksim* being violative of the mode of partition cannot sustain and deserves to be set aside. His assertion is based upon the reasoning that the land abutting the minor is more productive as compared to the land farther away from it.

3. I have considered the submissions made by learned counsel for the petitioners and with his assistance, have gone through the mode of partition as well as the impugned order and the site plan.

4. Perusal of the *sanad taksim* would show that the nature of the total land is *nehri* and there is no distinction as such in this regard which has been partitioned. The issue with regard to the land being not abutting the minor canal may be correct to the extent that the land which has been allotted to the petitioners is not near the canal minor but proper irrigation facilities have been provided as a *khal* has been provided for irrigating the land of the petitioners. Assertion of the counsel for the petitioners that at least two acres of land should have been given to the petitioners abutting the minor cannot be accepted in the light of the fact that the land had to be divided into three parts and each shareholder has been given land in a consolidated *tak* which is based upon the principles of partition. Assertion of the counsel for the petitioners that the land abutting to the minor is more

productive would depend upon the irrigation water which is made available. There is nothing which would indicate that the land at the farther place is not receiving proper irrigation or that the productivity thereof was not of the same nature or productivity as that abutting the minor. Assertion of the counsel for the petitioners that the time would be spent in filling the *khal* prior to it being used for the purposes of irrigation, suffice it to say that the canal authorities would take that into consideration and adequate steps can be taken by the said authorities, if found to be correct.

5. The Court does not find any illegality in the order dated 28.01.2019 (Annexure P-5) of partition passed by the Assistant Collector 2nd Grade, Sub Tehsil Bass, District Hisar, which would call for interference by this Court in exercise of its writ jurisdiction.

6. In view of the above, the writ petition stands dismissed.

July 16th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No