

CWP-18816-2019 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-18816-2019 (O&M)

Date of Decision: 12th September, 2019

Sarabjit Singh & another

...Petitioners

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. R.K. Arya, Advocate for the petitioners.

Ms. Amandeep Soni, Advocate, for the caveator.

AUGUSTINE GEORGE MASI, J. (ORAL)

CM-13283-CWP-2019

Prayer in this application is for exemption from filing certified copies of Annexures R-1 and R-2 and for placing on record photocopies thereof.

For the reasons mentioned in the application, the same is allowed. Documents Annexures R-1 and R-2 are taken on record, subject to all just exceptions.

CWP-18816-2019

Petitioners have approached this Court challenging the order dated 05.02.2019 (Annexure P-5) passed by the Financial Commissioner (Revenue), Punjab – respondent No.2, order dated 27.12.2016 (Annexure P-4) passed by the Sub Divisional Magistrate-cum-Collector, Batala – respondent No.3 and order dated 19.05.2016 (Annexure P-2) passed by the Naib Tehsildar-cum-Assistant Collector 1st Grade, Shir Hargobindpur as

also *sanad taksim* dated 13.10.2016 (Annexure P-3).

2. It is the contention of the learned counsel for the petitioners that house of the petitioners is situated in Khasra No.27//19/1/2. His contention is that the petitioners are only aggrieved to the limited extent that their residential house had not been allotted to them but has been allotted in the partition to one Tarsem Singh son of Avtar Singh. This, the counsel for the petitioners contends, would lead to a situation, where the petitioners would lose the investment which they have made in the construction of house, where they are residing.

3. In response to the said contention, learned counsel for caveator Avtar Singh, who is father of Tarsem Singh, has referred to the report of the Naib Tehsildar, Shri Hargobindpur,, District Gurdaspur, dated 30.08.2019, which has been placed on record as Annexure R-2, according to which, on the said khasra, there is no house and in fact, it is a cultivable land, in which paddy crop is standing.

4. The contention of the counsel for the petitioner, in the light of the above, therefore, is not acceptable. Further, perusal of the mode of partition, which has been finalized between the parties, would show that there is nothing mentioned with regard to retention of the house or construction. The terms of mode of partition are as follows:-

“1. It is the partition of total land measuring 63 kanal, 5 marla.

2. Partition will be done by disturbing the consolidation after adopting the consolidation rules and land will be distributed quality wise good to good and bad to bad, if require possession will be disturbed.

- 3. The trees shall be kept alongwith the land.
- 4. The watercourse rasta shall be given to Kura.
- 5. In case land is mortgage or transferred then the land will be given to the mortgagee through their owners.
- 6. If any party has installed tubewell in said rakba.
- 7. That the land (chahi) shall be given against chahi and land (Brani) shall be given against Brani.
- 8. That the revenue Patwari under superintending Girdawar shall be responsible to conduct this enquiry.”

It is not in dispute that this mode of partition has never been challenged by any of the parties. Objection, if any, has been raised by the petitioners to naksha zeem, which objection has been rejected by the Assistant Collector 1st Grade, vide order dated 19.07.2016. The order as has been passed by the said authority would actually sustain and cannot be faulted with in the light of the fact that the appeal and the revision preferred by the petitioners have been rejected on the ground that the *sanad taksim* has been issued.

- 5. There is no violation of the mode of partition which would call for any interference of this Court in exercise of its extraordinary writ jurisdiction.
- 6. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

12th September, 2019
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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