

CWP-20809-2018 (O&M)
&
CWP-20699-2018 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-20809-2018 (O&M)
Date of Decision: 06th February, 2019

JUJHAR SINGH & ANR

...Petitioners

Versus

STATE OF PUNJAB & ORS

...Respondents

CWP-20699-2018 (O&M)
Date of Decision: 06th February, 2019

JUJHAR SINGH & ANR

...Petitioners

Versus

STATE OF PUNJAB & ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present:- Mr. Mansur Ali, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

By this order, I propose to dispose of aforesaid two writ
petitions, as the similar points are involved in both the cases.

Petitioners have approached this Court challenging the
orders dated 28.05.2018 (Annexure P-7) passed by the Financial
Commissioner Punjab and the orders dated 05.09.2012 (Annexure P-5)

passed by the Divisional Commissioner, Patiala Division, Patiala and the orders dated 10.10.2009 (Annexure P-3) passed by the Assistant Collector, Ist Grade (Tehsildar), Rajpura whereby the application preferred by the petitioners for permission to place on record the objections to Naksha 'Arra' and the mode of the partition have been rejected, appeal against which preferred by the petitioners was accepted by the Appellate Authority which order on challenge has been set aside by the Divisional Commissioner, Patiala Division, Patiala vide order dated 05.09.2012 leading to the filing of the revision petition by the petitioners before the Financial Commissioner who has been dismissed vide order dated 28.05.2018 (Annexure P-7).

It is the contention of the learned counsel for the petitioners that initially the petitioners were proceeded against ex-parte before the Assistant Collector, Ist Grade (Tehsildar), Rajpura. On an application submitted by the petitioners, the ex-parte order was set aside with the consent of the parties on 07.12.2006. At that stage the case was fixed for preparation of the Naksha 'Arra'. Various dates were granted for producing the Naksha 'Arra' and ultimately the said Naksha 'Arra' was received on 05.04.2008. Thereafter, the case has been fixed for filing objections. On various dates the Court was busy and therefore the matter was not taken up.

Learned counsel for the petitioners further contends that the Court without the objections of the petitioners proceeded to finalize the Naksha 'Arra'. He contends that after the finalization of Naksha 'Arra', the petitioners filed an application for placing on record the objections which

was rejected by the Assistant Collector, Ist Grade (Tehsildar), Rajpura. Petitioners, have been deprived of their right of putting forth the objections leading to the dictate of the respondents to hold the field, therefore, learned counsel for the petitioners contends that the impugned orders cannot sustain and deserve to be set aside.

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

A perusal of the zimni orders as have been reproduced by the petitioners in the Civil Miscellaneous Applications No. **16466-2018 and 16467-2018** would show that various opportunities were granted to the petitioners for filing the objections to Naksha 'Arra'. Even last opportunity was granted to the petitioners on 08.07.2018 and thereafter also three opportunities were granted but no objections were filed to Naksha 'Arra'. In these circumstance, the Assistant Collector, Ist Grade (Tehsildar), Rajpura proceeded to finalize Naksha 'Arra' as there were no objections to the said Naksha 'Arra'. The next step was for preparing Naksha 'Irri" and then '*Sanad Takshim*'. It is after that, an application was filed by the petitioners for filing objections to Naksha 'Arra' along with the objections to the '*Sanad Takshim*' and Naksha 'Irri" which has been dismissed by the Assistant Collector, Ist Grade (Tehsildar), Rajpura.

In the light of the above records it cannot be said that the petitioners were not given ample opportunities to put forth their objections to Naksha 'Arra' rather the petitioners were lethargic and sleeping over the

rights despite various opportunities having been given to them. For such a person this Court would not exercise its equitable jurisdiction.

The plea of the learned counsel for the petitioners is that their stand is not available on the record and therefore this Court should interfere but this Court would not protect his claim in the light of the fact that the petitioners have virtually given up their right by not asserting it at a correct time when it was available to them. The impression which this Court gets is that the petitioners were intentionally delaying the partition proceedings. In such a situation the equitable jurisdiction is not being exercised.

There being no illegality in the orders which have been challenged by the petitioners, both writ petitions stand dismissed being devoid of merit.

(AUGUSTINE GEORGE MASIH)
JUDGE

06th February, 2019
tarun sahani

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