

CWP-24710-2019

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

CWP-24710-2019Date of Decision: 6th September, 2019Swaran Singh & another

...Petitioners

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Rai Singh Chauhan, Advocate,
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this court praying for issuance of writ of *mandamus* directing the respondents to give effect to the *sanad taksim* dated 16.08.2011 (Annexure P-2) in pursuance to the final partition order dated 28.06.2011 (Annexure P-1).

Counsel for the petitioners contends that the proceedings upto the Financial Commissioner (Appeals), Punjab, has attained finality with the dismissal of the appeal as well as of the revision petition. The dismissal of the revision petition is dated 02.08.2018 (Annexure P-5). In pursuance thereto, warrant of possession was issued on 31.05.2019 by the Assistant Collector 1st Grade, Khadoor Sahib, in which, a report of Halqa Patwari dated 13.06.2019 (Annexure P-10) has been received, where, grounds of appeal of the revision before the Financial Commissioner has been produced, because of which, it has been asserted that the possession cannot be delivered to the petitioners. This, the counsel for the petitioner contends, is not sustainable in the light of the dismissal of the revision petition on 02.08.2018. Highlighting this grievance, petitioner has already submitted a

representation dated 16.06.2019 (Annexure P-11) to the Deputy Commissioner, Tarn Taran, but no action has been taken thereon till date.

It has further been stated that by the learned counsel for the petitioners that a civil suit was preferred by the private respondents, which was dismissed by the Additional Civil Judge (Senior Division), Khadoor Sahib, on 05.10.2015, appeal against which has also been dismissed by the Additional District Judge, Tarn Taran, on 02.05.2016 (Anenxures P-6 and P-7). In Regular Second Appeal No.4819 of 2016, which has been preferred by the private respondents, initially stay was granted by this Court but the same stands vacated vide order dated 31.01.2019 (Annexure P-8). This order dated 31.01.2019 was to be effective from 02.05.2019. He, thus, contends that the said order has not been further challenged by the private respondents and therefore, there is no impediment for delivering the possession to the petitioners.

Having considered the submissions made by the learned counsel for the petitioners, direction is issued to the Deputy Commissioner, Tarn Taran – respondent No.2 that in case the assertions made by the counsel for the petitioners as recorded above are correct, consider the representation of the petitioners dated 16.06.2019 (Annexure P-11) and do the needful at an early date and in any case, not beyond a period of two months from the date of receipt of certified copy of this order.

6th September, 2019
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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