

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

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Civil Writ Petition No.36145 of 2018 (O&M)
Date of Decision: February 26th, 2019

Ishwar Singh and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Vineet Chaudhary, Advocate
for the applicants-petitioners.

AUGUSTINE GEORGE MASI, J. (ORAL)

CM No.2551-CWP of 2019

Prayer in this application is for placing on record the mutation as Annexure P-17 and exemption from filing the certified copy of the same.

Application is allowed subject to just exceptions.

Annexure P-17 is taken on record.

Exemption, as prayed for, is granted.

CM No.2285-CWP of 2019

Prayer in this application is for placing on record the site plan/map as Annexure P-16 and for exemption from filing the certified copy of the same.

Application is allowed subject to just exceptions.

Annexure P-16 is taken on record.

Exemption, as prayed for, is granted.

CWP No.36145 of 2018

Challenge in this writ petition is to the order dated 17.07.2018

(Annexure P-3) passed by the Financial Commissioner, Haryana,

petitioners against the order dated 11.05.2017 (Annexure P-4) passed by the Assistant Collector 1st Grade, Kalayat, District Kaithal, vide which the sanad taksim of the land has been issued after proceeding *ex parte* against the petitioners in an application for partition preferred by respondent No.4- Randhir Singh, has been dismissed.

2. It is the contention of learned counsel for the petitioners that the petitioners are aggrieved as the *ex parte* proceedings initiated against them as it is not in accordance with law as the petitioners were never served. He further contends that the application for partition was preferred by respondent No.4 against the petitioners and other co-sharers, however, after the sanad taksim having been issued, the petitioners found themselves without any water source for irrigation of their land. He further contends that the actual land, which the petitioners have received, is 11 kanals, 11 marlas, whereas it should have been 11 kanals, 16 marlas approximately, which has gone to the share of others. He, thus, contends that the impugned orders cannot sustain and deserve to be set aside.

3. I have considered the submissions made by learned counsel for the petitioners and with his assistance, have gone through the records of the case, especially the sanad taksim as also the site plan, which has been placed on record indicating the land of each of the co-sharers after partition along with the canal water source.

4. Perusal of these documents would show that the petitioners have the source of water as the water-course reaches the land of the petitioners and in fact, the petitioners are at the tail end of the said watercourse. Each of the co-sharers have been granted equal share in the land and, therefore, it cannot be said to be a case where petitioners have

received less land as the path, which has been carved out, has been equally shared by all the co-sharers. The aspect with regard to the *ex parte* proceedings cannot be accepted as the records indicate that the petitioners were duly served in the proceedings before the Assistant Collector Ist Grade but they failed to put in appearance before the said authority. That apart, the revision petition which has been preferred by the petitioners was hopelessly time barred and, therefore, the Financial Commissioner has rightly proceeded to dismiss the same on the grounds of limitation.

5. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

February 26th, 2019
Puneet

AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No