

**C.M. NO.5057 CWP OF 2020 &
CIVIL WRIT PETITION NO.7546 OF 2020**

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

119 (PROCEEDINGS THROUGH V.C.)

**C.M. NO.5057 CWP OF 2020 &
CIVIL WRIT PETITION NO.7546 OF 2020
DATE OF DECISION: JUNE 05, 2020**

Krishan and another

.....Petitioners

VERSUS

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vaibhav Sharma, Advocate,
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. NO.5057 CWP OF 2020

Application is allowed as prayed for subject to all just exceptions.

Documents, Annexures P-5 to P-10, are taken on record.

C.W.P. No.7546 of 2020

The petitioners have approached this Court, impugning the orders passed by the revenue authorities starting from Tehsildar and Assistant Collector IInd Grade, Israna, dated 31.10.2013 (Annexure P-2), whereby the objections raised by the petitioners with regard to *naksha bey* were rejected and by approving the *naksha bey*, Halqa Patwari was directed to finalize the *naksha jeem*. Appeal against the said order has also been

dismissed by the District Revenue Officer and the Collector, Panipat, on 20.08.2014 (Annexure P-3) followed by dismissal of the revision petition by the Divisional Commissioner, Karnal Division, Karnal vide order dated 07.12.2018 (Annexure P-4).

It is the contention of learned counsel for the petitioners that in the year 1961-62, when the predecessors-in-interest of the petitioners and that of the private respondents came into possession of the land, better quality of land was given to the predecessors-in-interest of the private respondents. To support this contention, he has referred to jamabandies, Annexures P-5 to P-7. He also contends that as is apparent from the said revenue record, the land in possession of the predecessors-in-interest of the private respondents was much better than the predecessors-in-interest of the petitioners. The predecessors-in-interest of the petitioners as well as the petitioners, with their efforts, have been able to improve the nature of the land. He contends that keeping in view the quality of the land, which has been improved by the petitioners, the private respondents intends to grab the same by way of filing present partition application. He contends that the petitioners deserve to be compensated for the efforts, which they have put in to improve the quality of the land, which aspect has not been taken into consideration by the Courts below. He, thus, contends that the land, which is being partitioned, would leave the petitioners at loss not only in the area but also the efforts, which have been put by them and the respondents would be at gain for the efforts put in by the predecessors-in-interest of the petitioners. He, thus, contends that the impugned orders cannot sustain and deserve to be set-aside.

I have considered the submissions made by learned counsel for

the petitioners and with his assistance have gone through the impugned orders as also the documents, which have been placed on record by them, including the revenue record as also the order passed by the Financial Commissioner in the earlier round of litigation, where the petitioner had taken the plea of partition of the land, though orally i.e. Question of title, which has attained finality upto the High Court with a dismissal of Civil Writ Petition No.14908 of 2007 titled as Bhartha and others Vs. State of Haryana and others, decided on 05.12.2011 (Annexure P-10).

The order dated 09.05.2007 (Annexure P-9) passed by the Financial Commissioner, Haryana, in the second revision petition preferred by private respondents, would clearly show that the mode of partition, which was finalized between the parties provided that the partition would be effected keeping in view the possession of the parties at the site and that tubewell installed at the site would also be kept in the *kurra* of the co-sharers, who had installed the said tubewell. It was further observed that whatsoever improvements which have been made by the respective co-sharers in their shares, the same has attained finality and the petitioners, at this stage, cannot be permitted to raise such an issue.

That apart, it is a settled proposition of law that once it is established that there was no partition between the co-sharers, each co-sharer has to be treated in possession of each inch of the land, meaning thereby that they are in joint possession of the land. The improvements and the quality of the land go hand by hand. Obviously, the partition has to be effected as per the mode of partition, which has attained finality. In the considered view of this Court, the mode of partition has been adhered to by the revenue courts, which do not call for any interference.

It may be added here that as per the admitted position, the petitioners are in possession of the excess land, which would otherwise has fallen to their share, although a plea has been taken that this excess land was given because of inferior quality of land, when respective parties were holding the possession. This aspect cannot be gone into at this stage in the light of the earlier litigation, which has attained finality.

The endeavour on the part of the petitioners appears to delay the partition proceedings, which is not appreciable and, therefore, interference by this Court in exercise of writ jurisdiction, cannot be made.

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

**June 05, 2020
khurmi**

**(AUGUSTINE GEORGE MASIH)
JUDGE**

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