

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.103

CWP-19270-2019 (O&M)

Date of decision : 7.2.2020

Molu Ram

..... Petitioner

VERSUS

Financial Commissioner Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. S.K. Verma, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner is praying for quashing of the orders of the authorities below, especially, orders dated 26.3.2019 (Annexure P-8), 3.4.2018 (Annexure P-7) and 12.9.2017 (Annexure P-6), whereby, his appeals and revisions against order dated 17.5.2017 (Annexure P-5) passed by the Tehsildar, Sirsa, rejecting the objections to the naksha bey have been dismissed.

Learned counsel for the petitioner submits that the naksha bey was contrary to the approved mode of partition and thus, the orders dismissing his objections are illegal.

The terms of the mode of partition that have been relied upon are; a) possession be maintained and rules of chakbandi to be adhered to, b) land, where house or tubewell has been constructed, should be given to the concerned co-sharers and c) if, a co-sharer is not in a situation to contribute land measuring 0 kanal, 2 marlas then this land will be given from the joint land.

The naksha bey is on record as Annexure P-2. Admittedly, the petitioner was in possession of khasra No.23/2, 24/2 and 25/2 amongst others and he has been given possession of the same. Thus, it cannot be

argued that possession has not been maintained. So far as, interference with the dhani constructed in khasra No.23/2 and 24/2 is concerned, the authorities below have found that by virtue of the naksha bey, the dhani is not being adversely affected, in any manner. Learned counsel for the petitioner has not been able to show that how this finding is incorrect. The petitioner has been given the land on which his house is in existence. Thus, there is no violation of proposed mode of partition.

The final argument raised by learned counsel for the petitioner is that of reduction of land holding due to utilization of land for khal/rasta. However, the oral assertion of the petitioner in this regard cannot be accepted. Even, in the writ petition, no such assertion has been made.

For the aforementioned reasons, there is no merit in the writ petition and the same is dismissed.

(SUDHIR MITTAL)
JUDGE

7.2.2020

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No