

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

C.W.P.No.37180 of 2019

Date of Decision:- 29.01.2020

Avtar Singh and others

....Petitioners

vs.

State of Punjab and others

....Respondents

BEFORE :- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Narinder Singh Swaitch, Advocate,
for the petitioners.

Sudhir Mittal, J. (Oral)

The petitioners are co-sharers of land situated in village Jeonpura, Tehsil Rajpura, District Patiala. They are aggrieved because their objections against '*Naksha Urra*' have not been decided till date.

On an application for partition filed by some of the private respondents, *Naksha Urra* was approved on 15.11.2012. On the next day i.e. 16.11.2012, directions were issued to prepare '*Naksha Erra*' and '*Naksha Erri*'. The said nakshas were received on 19.11.2012 and time was given till 21.11.2012 to file objections thereto. On 21.11.2012, more time was given for filing objections and the matter was adjourned to 23.11.2012. However, no objections were received and, thus, directions were issued for preparation of *sanad*. *Sanad* was prepared on 24.12.2012. The order of preparation of *sanad* was challenged by way of appeal before the learned Divisional Commissioner, Patiala, but the appeal was dismissed vide order dated 23.12.2014 as being not maintainable. Thereafter, partition proceedings were challenged by way of civil suit but the suit was dismissed vide judgment and decree dated 19.12.2017. Appeal against the said judgment and decree is stated to be pending.

Learned counsel for the petitioners submits that the objections of the petitioners dated 26.11.2012 have not been decided till date and thus, the partition proceedings are illegal.

The contention is without any merit. No objections could have been filed after preparation of *sanad taksim*. It is not the case of the petitioners that they had not been served during the partition proceedings and, thus, sufficient time was available to them between 19.11.2012 and 23.11.2012 for filing objections. Moreover, after preparation of *sanad taksim*, no objections could have been entertained and the *sanad* could only have been challenged either before the Financial Commissioner or before this Court. Neither of these remedies were availed in time. On the contrary, a civil suit was filed for a declaration that the partition proceedings are illegal. The present writ petition is of the year 2019 and thus, there is a tremendous delay in filing the same because the *sanad taksim* was issued far back on 24.12.2012. The argument that delay has occurred on account of filing of civil suit is of no consequence. A proper and appropriate remedy has to be availed within reasonable time and adoption of another remedy is not sufficient explanation.

The writ petition is, thus, without any merit and is dismissed. Since learned counsel for the petitioners has submitted that an appeal has been filed against the judgment and decree of the Civil Court, they are at liberty to proceed with the said appeal in accordance with law.

January 29, 2020

poonam

Whether Speaking/Reasoned

Whether Reportable

(SUDHIR MITTAL)

JUDGE

Yes

No