

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

Sr. No.115

CWP No.11491 of 2021

DATE OF DECISION: July 23, 2021

ATTAR SINGH

..PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Gurmail Singh Duhan, Advocate, for the petitioner.
Mr. R.K.S. Brar, Additional Advocate General, Haryana.

SUDHIR MITTAL, J. (ORAL)

On instructions from the learned Assistant Collector 2nd Grade, Charkhi Dadri, learned State counsel submits that pursuant to issuance of sanad, parties have been put in possession on 05.07.2011 and mutation No.1171 regarding possession was entered on 04.08.2011.

Learned counsel for the petitioner argues that his client is serving in the Railway Police. He was wrongly proceeded against ex parte vide order dated 06.05.2008. No munadi was conducted in the village and even if it was conducted, the petitioner did not acquire knowledge of the same. Thus, ROR filed against order dated 02.02.2017 passed by the Commissioner should have been considered as a challenge to the sanad but the same was not done. Accordingly, order dated 11.02.2021 passed by the learned Financial Commissioner deserves to be set aside.

To appreciate the controversy, reproduction of necessary facts is essential. Respondent No.5 filed an application for partition whereupon notices were issued. On 12.07.2007, a zimni order was recorded that the petitioner could not be served as he was serving in the Army (should have

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been Railway Police) and thus, service be effected through munadi. Subsequent, orders show that the Presiding Officer had been transferred and the matter was adjourned awaiting appointment of a new Presiding Officer. Even after appointment of a new Presiding Officer, the matter was adjourned for a few dates but vide order dated 20.03.2008, again munadi was ordered. Thereafter, the petitioner was proceeded against ex parte vide order dated 06.05.2008 as despite munadi he had not put in appearance. Partition proceedings were concluded and sanad dated 27.08.2008 was issued. As noticed earlier, parties have been put in possession in the year 2011 and mutation has also been entered. The petitioner challenged order dated 06.05.2008 before the Collector and the challenge succeeded in terms of order dated 31.01.2014. This was challenged by respondent No.5 before the Commissioner who set aside the same vide his order dated 02.02.2017. ROR filed by the petitioner has been dismissed vide order dated 11.02.2021.

From the aforementioned narration, it is evident that pursuant to issuance of sanad, parties have been put in possession. Assuming that the revision filed before the learned Financial Commissioner was in fact a challenge to the sanad, the same was highly belated. According to the record, no error was committed by the learned Assistant Collector while proceeding against the petitioner ex parte on 06.05.2008. Stale matters cannot be permitted to be reopened at the whims of parties.

The writ petition has no merit and is dismissed.

July 23, 2021

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes
No