

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

Sr. No.117

CWP No.12420 of 2021

DATE OF DECISION: July 23, 2021

SATBIR

..PETITIONER

VERSUS

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Lajpat Rai Sharma, Advocate,
for the petitioner.

Mr. Vikram Singh, Advocate,
for the Caveator-respondent No.5.

SUDHIR MITTAL, J. (ORAL)

On instructions, counsel for the private respondents submits that house of the petitioner does not fall in the small passage shown towards the East of Killa No.16/1/2. Only the kotha attached with the house falls in the passage and the same has been constructed during the pendency of the partition application. This is evident from the fact that objections to naksha bey (Annexure P-7) do not contain any objection on the ground that the residential house of the petitioner is in existence. The Divisional Commissioner has given a finding while passing order dated 19.03.2019 that the construction, if any, has been raised during the pendency of the partition application. The private respondents are willing to pay costs of demolition of the kotha attached with the residential house.

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In response, learned counsel for the petitioner submits that passage on the East of Killa No.16/1/2 bifurcates the land of the petitioner and that the private respondents may raise construction thereupon at later stage blocking the entry of the petitioner to his land. Thus, the rasta should be given from the Western dol of Killa No.16/1/2. The argument being raised now is contrary to that raised on 14.07.2021 and is obviously an afterthought. The statement made by counsel for the private respondents has not been rebutted in any manner.

It is further submitted that the land of the petitioner does not find mention in the sanad takseem. Naksha bey was correctly set aside by the learned Collector and thus, the impugned orders are not sustainable in law.

It is thus apparent that the only grievance of the petitioner is grant of rasta through Eastern dol of Killa No.16/1/2. As noticed earlier, the house of the petitioner does not fall in the said rasta. Thus, I see no reason for insistence that the rasta be given through the Western dol of Killa No.16/1/2. If the land of the petitioner does not find mention in the sanad takseem, the petitioner is at liberty to approach the Assistant Collector 2nd Grade for correction. Naksha Jeem mentions the land of the petitioner and the non-inclusion thereof in the sanad appears to be a clerical error.

With the aforementioned clarification, the writ petition is dismissed.

July 23, 2021

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes

Whether Reportable

No