

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

(108)

LPA-95-2022 (O&M)
Date of Decision:-20.09.2022.

Pushpa @ Pushpa Bansal and others

.....Appellants

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present: Mr. Sandeep Sharma, Advocate for the appellants.

Mr. P.S. Chauhan, Senior Addl. A.G., Haryana.

AUGUSTINE GEORGE MASIH, J. (Oral)

Challenge in this appeal is to the judgment passed by the learned Single Judge dated 03.12.2021, whereby, the writ petition preferred by the appellants challenging the order dated 01.03.2021 (Annexure P-5) passed by the Financial Commissioner, Haryana, exercising its revisional powers setting aside the *Sanad Taksim* and remanding the case back to the Assistant Collector for deciding the partition application afresh while giving opportunity of hearing to all the co-sharers by considering their objections in the light perspective, was dismissed.

It is the contention of the learned counsel for the appellants that against the mode of partition which was proposed, objections were filed by respondent No.3 which were rejected and, thereafter, the proceedings went on till the partition proceedings were concluded by issuance of a *Sanad Taksim*. At no stage was any challenge laid to the

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mode of partition or the various *Nakshas* which were framed in pursuance thereto. He, therefore, contends that the order, as has been passed by the Financial Commissioner in the revision petition, which was preferred by respondent No.3, cannot sustain as according to the mode of partition, possession of the land had to be kept intact, which aspect had been adhered to by the Assistant Collector Ist Grade while issuing the *Sanad Taksim*. Assertion has also been made that after the issuance of *Sanad Taksim* the revision petition has been preferred after a delay of one year but this aspect when confronted with, the counsel for the appellant has no answer as there is no objection as such taken by the appellants before the Financial Commissioner with regard to the delay having occurred in challenging the said order. It is not in dispute that the remedy of revision is available to an aggrieved party against the issuance of a *Sanad Taksim* and there is no appeal maintainable against such *Sanad Taksim*. The exercise of powers, therefore, by the Financial Commissioner in exercise of its revisional jurisdiction cannot be said to be not in accordance with law.

Otherwise also, on merits, it is apparent that undue benefit has been granted to the appellants while preparing the *Sanad Taksim*. Not only the land which was purchased by the appellants have been kept intact with them which was all on the road, whereas, as per the principles of partition, each co-sharer according to his share is entitled to not only the area but also the quality of the land in proportion to the share, which aspect has not been taken note of and has been ignored as is apparent from the *Aks Sijra*, which has been placed on record by the appellants as Annexure P-16. Maximum land of the appellants has been given on the main road, whereas, only 1/3rd of the portion has been given to respondent No.3 on the road and the

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remaining land is on the inner side i.e., far away from the main road. Another aspect which again is something which goes to the root cause of irregularity i.e., the passage given to the fields of the appellants by deducting the land from the share of respondent No.3. This aspect appears to be totally unjustified when the land which has been allotted to the appellants is in one chunk and the same is on the main road where there is easy access to the land of the appellants.

We, therefore, do not find any illegality in exercise of the powers of revision resorted to by the Financial Commissioner, Haryana, while passing the order dated 01.03.2021 (Annexure P-15), which has been affirmed by the learned Single Judge.

Finding no merit in the present appeal, the same stands dismissed.

In view of the dismissal of the main appeal, pending miscellaneous applications also stand disposed of.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ALOK JAIN)
JUDGE

September 20, 2022.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No