

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

**L.P.A. NO.710 OF 2021
DECIDED ON: 26.07.2022**

Gurcharan Lal

.....APPELLANT

VERSUS

Amar Singh and others

.....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Jagtar Kureel, Advocate,
for the appellant.

AUGUSTINE GEORGE MASIH, J.

Challenge in this appeal is to the judgment passed by the learned Single Judge dated 23.01.2020 (Annexure P-1), whereby writ petition preferred by the petitioner (appellant herein), challenging order dated 20.09.2016 (Annexure P-13) passed by the Financial Commissioner, Haryana, dismissing the second revision petition; order dated 18.07.2011 (Annexure P-12) passed by the Commissioner, Hisar Division, Hisar (respondent No.4); order dated 30.09.2009 (Annexure P-11) passed by the Appellate Authority i.e. Collector, Fatehabad-respondent No.3; order dated 22.12.2008 (Annexure P-10) passed by the Assistant Collector IInd Grade, Fatehabad, whereby *naksha kh* and *Ga* were approved in pursuance of order dated 28.11.2008 (Annexure P-9), whereby *naksha bey* was approved, has been dismissed.

It is the contention of learned counsel for the appellant that the appellant was not granted any opportunity to file objections to *naksha bey*,

which has been prepared in pursuance of the mode of partition having been finalized on 17.04.2006. The plots, which have been allotted to the appellants, are in violation of the mode of partition and that *sanad takseem*, which has been issued in pursuance of the *naksha kh*, thus, cannot sustain.

We have considered the averments made by counsel for the appellant and with his assistance have gone through the judgment passed by the learned Single Judge as well as records of the case and the pleadings but find that counsel for the appellant has made an effort to mislead this Court and has made a statement, which is contrary to the record qua the fact that no opportunity has been granted to the appellant for filing objections to the *naksha kh*. Perusal of the order passed by the Commissioner dated 18.07.2011 as also the other orders passed by the subordinate authorities would indicate that the mode of partition was approved on 17.04.2006. *Naksha bey* was prepared on that basis and thereafter objections were called for on 16.07.2008 and 12.08.2008 but no objections were filed to the said *naksha*. Under those circumstances, the Assistant Collector IInd Grade, Fatehabad-respondent No.2 has rightly proceeded to approve the same on 12.08.2008. As a consequence thereof, *sanad takseem* was issued on 22.12.2008. Once the appellant has not filed any objection to the proposed *naksha bey*, the plea of the appellant cannot be accepted and has, therefore, been rightly rejected by the appellate authority and the two revisional authorities vide orders dated 30.09.2009 (Annexure P-11), 18.07.2011 (Annexure P-12) and 20.09.2016 (Annexure P-13) respectively. The learned Single Judge has also taken note of this aspect and has proceeded to agree with the findings recorded by the authorities. We are also of the same view.

Another reason, which has been assigned for rejecting the writ

petition, is that there has been delay on the part of the appellant in challenging the order dated 20.09.2016 (Annexure P-13) by way of writ petition filed on 08.01.2020. The explanation, which has been put forth, is that the counsel who had been conducting the case before the Financial Commissioner had not intimated them about the dismissal of the revision petition. The duty has been caste upon the appellate and it is expected of a prudent person to be vigilant about his rights. While sleeping over his rights, a litigant cannot be given the benefit merely because the counsel had not informed him. He himself is required to pursue his case in true earnest, which in this case the appellant has failed. In any case, we do not find it a case where equity should be exercised in favour of the appellant.

In view of the above and keeping in view the fact that the counsel had not stated the correct facts while arguing the case as it was stated by him that no opportunity was granted to the appellant to file objections, which fact has been found to be contrary to the record as held above, we dismiss the present appeal with costs of ₹20,000/- to be deposited by the counsel with the High Court Lawyers Welfare Fund within a period of four weeks from today.

(AUGUSTINE GEORGE MASIH)
JUDGE

(SANDEEP MOUDGIL)
JUDGE

26.07.2022
khurmi

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*