

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

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LPA No.357 of 2022 (O&M)
Date of decision: May 7th, 2022

Ramkishan and others

....Appellants

Versus

State of Haryana and others

....Respondents

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

Present: Dr. Naresh Kaushik, Advocate
for the appellants.

AUGUSTINE GEORGE MASIH, J.

CM No.906-LPA of 2022

Prayer in this application is for placing on record copy of *sanad taksim* as Annexure A-1.

Application is allowed subject to just exceptions.

Sanad taksim (Annexure A-1) is taken on record.

LPA No.357 of 2022 (O&M)

In this appeal, challenge is to the order dated 26.04.2022 passed by the learned Single Judge, whereby writ petition preferred by the appellants/petitioners stands dismissed on the ground that the *sanad taksim* had been issued and, therefore, the Appellate Authority did not have the jurisdiction to entertain the appeal, whereas the Revisional Authority has proceeded to reject the said prayer with regard to the challenge to the *sanad taksim* on the ground that the mode of partition has been followed and there is no error in the process of partition.

2. Learned counsel has asserted that the mode of partition, as has been finalized between the parties, has not been followed and the *sanad taksim* has been wrongly issued. The Girdawar has not verified on the

spot possession and in *naksha* 'B', possession has been disturbed. The same has been based upon old *jamabandi*, whereas it should have been as per new *jamabandi* for the year 2008-2009. Objections dated 22.07.2015 preferred by the appellants have not been properly dealt with. Passage to the appellants has not been granted despite accepting the fact in the order dated 28.03.2018. On this basis, it has been asserted that the order passed by the learned Single Judge dated 26.04.2022 and that of the revenue authorities in the partition proceedings deserve to be set aside. He, therefore, prays that the appeal may be allowed.

3. We have considered the submissions made by the counsel of the appellants and with his assistance, have gone through the pleadings and the impugned orders.

4. The submissions as have been made by the counsel for the appellants cannot be accepted as none of the pleas as have been raised herein inspire confidence to be of such a nature which would call for interference in the present appeal.

5. In the light of the fact that the *sanad taksim* had already been issued, there can be no dispute that the appeal as has been preferred by the appellants challenging *naksha* 'B' as sanctioned on 28.02.2016 would not sustain as no appeal is maintainable at that time. In any case, the appeal was found to be time barred and, therefore, dismissed leading to the filing of the revision petition before the Commissioner, Gurugram Division, Gurugram. The challenge, therefore, to *naksha* 'B' in the light of the *sanad taksim* having already been finalized and issued, the same would not be sustainable.

6. The plea of the counsel for the appellants that there is no access available to the appellants in the light of the fact that the passage which was

available earlier has been acquired for a canal by the Government and there is no other access, the said plea is not acceptable. It has been mentioned in the order dated 29.03.2022 passed by the Commissioner, Gurugram Division, Gurugram, in the revision petition that the acquired land has not been included in the partition and the compensation has been distributed amongst all the co-sharers. It has already come on record in the order of the Revisional Authority that the access through the canal is given to all the co-sharers which was the best possible solution and it cannot be considered as an illegality or irregularity or one which suffers from any vice. Nothing has been indicated and explained as to the prejudice caused by giving path for the co-sharers through the canal.

7. As regards the contention of the counsel for the appellants that there has been disturbance in the possession during the partition, whereas as per finalized mode of partition, possession was to be kept intact, suffice it to say that whenever the partition has to be carried out, disturbance of possession is inevitable to complete the possession. The terms of partition clearly spell out that the possession would be kept intact as far as possible. There cannot be a situation where there would not be any dislocation or disturbance of possession during the process of partition.

8. As regards the plea of old *jamabandi* which is said to have been used and utilized for preparation of *naksha* 'B', nothing has been pointed out by the counsel for the appellants as to the prejudice having been caused to the appellants or any error which has crept in because of the same.

9. All the above aspects have been dealt with by the Revisional Authority while passing the impugned order dated 29.03.2022 (Annexure P-12) with which we are in agreement.

10. There being no illegality/irregularity and there being concurrent findings returned by the authorities, we do not find the present appeal to be one which would call for any interference. The appeal, therefore, stands dismissed.

11. In the light of the dismissal of the appeal, CM No.907-LPA of 2022 for stay stands disposed of as infructuous.

(AUGUSTINE GEORGE MASIH)
JUDGE

May 7th, 2022
Puneet

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No