

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

Sr. No.111

**CWP-23443-2022 (O&M)
Date of decision : 01.12.2022**

Chamkaur Singh and another

..... Petitioners

VERSUS

Financial Commissioner (Appeals), Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Suresh Singla, Advocate, for the petitioners.

SUDHIR MITTAL, J. (Oral)

The petitioners are co-sharers in the land sought to be partitioned by virtue of purchase from a co-sharer. Partition has been completed and *sanad* has been issued. Challenge thereto by the petitioners has failed and thus, the present writ petition has been filed.

Learned counsel for the petitioners has submitted that the Financial Commissioner was in error in dismissing the revision petition on the ground of objections having not been filed to Naksha Arra. Said objections could not be filed due to reasons beyond the control of the petitioners and this fact has not been taken into consideration. There was no inordinate delay on their part.

The submission cannot be accepted. The proceedings had been adjourned *sine die* for number of years on account of pending

vide order dated 21.01.2009, parties were directed to file objections to Naksha Arra. The petitioners sought last opportunity for filing objections on 11.06.2009, but the same was declined. No fault can be found with this order as a period of five months was sufficient for filing objections. It is also relevant to note that proceedings were revived in the year 2007 and Naksha Arra was already on record at that time. Thus, passing of a specific order seeking objections thereto was not necessary. The petitioners are guilty of having unnecessarily delayed filing of the objections and thus, they are estopped by their conduct from challenging the order rejecting their request for granting a last opportunity.

It has also been submitted that the Naksha Arra was contrary to the mode of partition. Since, the *sanad* has been issued on the said basis, the *sanad* is also contrary to the mode of partition. It thus, deserves to be set aside.

Even if, that is the case, the petitioners were bound to raise objections at the appropriate time. Having failed to do so, they cannot raise the grievance at this stage. All objections would be deemed to have been waived.

Finally, it has been argued that the partition application itself was not maintainable as two khewats have been clubbed therein. The said two khewats have different co-sharers.

This argument also deserves to be rejected for the reason that the petitioners did not raise this objection before the Assistant Collector. Accordingly, they would be deemed to have consented to partition of two different khewats in one proceeding. Moreover, this ground has not been

raised before any of the authorities below and thus, it cannot be raised first time in the writ petition.

For the foregoing reasons, the writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

01.12.2022
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No