

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

Sr. No.114

**Civil Writ Petition No.24645 of 2022
Date of Decision : October 27, 2022**

Amar Singh (Deceased) through his LR

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ajay Jain, Advocate, for the petitioner.

Mr. Munish Gupta, Advocate for respondent No.2-Caveator.

SUDHIR MITTAL, J. (ORAL)

The predecessor-in-interest of the petitioner namely Amar Singh, s/o Sh. Umrao Singh, had filed an application for partition of the land in dispute. Partition was done vide order dated 03.05.2016 and sanad was also issued on the same day. Aggrieved, respondents No.4 & 5 filed an appeal which was dismissed vide order dated 30.01.2017 on the ground of maintainability. Thus, revision petition was preferred before the Financial Commissioner and the same has been allowed. Sanad has been set aside and the matter has been remanded for fresh partition.

Learned counsel for the petitioner has raised precisely two submissions (a) in the appeal filed before the Collector, order dated 27.11.2015 (Annexure P-5) was not challenged and thus, the same could not have been challenged in the revision petition also; (b) the Financial

Commissioner has erred in concluding that the zimni orders have been interpolated/tampered with, resulting in violation of principles of natural justice. Thus, the impugned order is illegal and deserves to be set aside.

Both the arguments are being considered separately.

There is no legal basis for submitting that an order not challenged in an appeal cannot be challenged in revision petition also. Assuming, that it is a correct statement of law, it would not bar the revisional court from setting aside the sanad. Once that happens, all interim orders would be automatically set aside as they had merged in the final order of partition, irrespective of whether challenge to a particular interim order was maintainable or not. Thus, the first argument is rejected.

In support of the second argument, reliance has been placed upon zimni orders dated 19.08.2014 onwards till 18.03.2016. The submission is that orders dated 24.09.2014 as well as the one passed on 25.03.2015 have been misread. The same submission has been made regarding orders dated 20.11.2015 and 27.11.2015. It may be that orders dated 24.09.2014 and 25.03.2015 have been misread but that would not materially affect the validity/legality of the proceedings. However, a perusal of the orders dated 20.11.2015, 27.11.2015, 24.12.2015 and 18.03.2016 clearly establishes tampering with the judicial record. Vide order dated 20.11.2015, the case was adjourned to 21.12.2015, but the matter was taken up earlier i.e. on 27.11.2015 and an application was dismissed by an order of even date. Thereafter, the matter was adjourned to

24.12.2015, 29.12.2015, 29.01.2016 and 18.03.2016 on which date *Naksha Bey* was confirmed. Respondents No.4 & 5 were obviously not aware of the proceedings conducted on dates on which the matter was not supposed to be listed/heard. Thus, the conclusion that principles of natural justice have been violated, cannot be faulted.

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

October 27, 2022
Ankur

(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes