

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-5447-2023

Date of decision : 17.03.2023

Satpal Dutta and others

... Petitioners

Versus

Assistant Collector 2nd Grade-cum-Tehsildar and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.B.S. Rana, Senior Advocate with
Mr.Nayandeep Rana, Advocate
for the petitioners.

Ms.Upasana Dhawan, AAG, Haryana
for respondent no.1.

Mr.Ankur Sidhar, Advocate for
Mr. Rajesh Khandelwal, Advocate
for the caveators-respondents no.2 to 4.

VIKAS BAHL, J.(ORAL)

This is a civil writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the instrument of partition dated 10.01.2023 (Annexure P-6) sanctioned by the Tehsildar-cum- Assistant Collector 2nd Grade, Raduar-respondent no.1.

Learned State counsel and learned counsel for respondents no.2 to 4 have submitted that in the present case since the proceedings have been initiated after amendment in the year 2017, thus, it would be the Commissioner which would be the appropriate authority before whom a revision can be filed after the issuance of sanad takseem. It is further

submitted that the provisions of Section 16 of the Punjab Land Revenue Act, 1887 governing revisional power of the Commissioner are similar to the revisional power of the Financial Commissioner prior to the amendment.

Learned senior counsel for the petitioners has submitted that the petitioners would file a revision petition before the Commissioner within a period of one week from today and has prayed that the said revision petition be taken up for preliminary hearing within a period of 10 days from the date of filing and the prayer of the petitioner for stay be considered by the Commissioner within a period of 10 days from the date of filing the case.

Learned counsel appearing for private respondents has submitted that the present order should not be construed by the Commissioner as an order requiring the Commissioner to grant stay in the matter and the same be considered, in accordance with law.

Keeping in view the above said facts and circumstances, the present petitioners are permitted to withdraw the present petition with liberty to file a revision petition before the Commissioner.

Registry of the Commissioner is directed to put up the revision petition filed by the petitioners, if complete in all respects, within a period of 10 days from its filing, before the Commissioner. The Commissioner is directed to consider the revision petition filed by the petitioners along with the stay application for preliminary hearing on the date when the matter is fixed by Registry of the Commissioner and to pass appropriate orders on the stay application within a period of three days from the date of affording preliminary hearing to the petitioners.

It is made clear that this order should not be construed as a

direction to the Commissioner to grant stay and the application as well as the revision petition would be considered by the Commissioner independently, in accordance with law.

(VIKAS BAHL)
JUDGE

March 17, 2023
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No