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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.13284 of 2023

Date of decision : 04.07.2023

Ranbir

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Gurjot Singh Sadhrao, Advocate
for the petitioner.

RAJESH BHARDWAJ, J. (Oral)

1. By way of filing present petition, the petitioner has approached this Court praying for issuance of a writ in the nature of certiorari for setting aside the orders dated 06.04.2023 (Annexure P-8) passed by the Financial Commissioner, Haryana, order dated 21.08.2019 (Annexure P-6) passed by the Commissioner, Rohtak Division, Rohtak, order dated 12.10.2018 (Annexure P-5) passed by the Collector, Sub Division Sampla, District Rohtak and order dated 17.11.2017 (Annexure P-4) passed by the Assistant Collector, Ist Grade, Sampla, District Rohtak.

2. As per facts of the case, respondent No.7, namely, Karamchand filed an application praying for partition of the land comprised in Khewat No.602, Khatoni No.693, total land measuring 61 Kanal, situated in village Kharawad, Tehsil Sampla, District Rohtak. It was prayed to carry out the partition by breaking the possession and by

partitioning the land on the basis of the price and quality of the land. Pursuant to the same, the remaining co-sharers were summoned and the mode of partition was prepared on 20.05.2016. The objections raised were rejected by the learned Assistant Collector, Ist Grade, Sampla vide order dated 17.11.2017. The petitioner filed appeal against the same, however, the same was declined by the learned Collector vide his order dated 12.10.2018. The same was assailed by the petitioner by way of filing the revision before the learned Commissioner, but the same was declined vide order dated 21.08.2019. The petitioner assailed the same by way of filing the ROR before the learned Financial Commissioner. On hearing both the sides, the learned Financial Commissioner declined the same vide impugned order dated 06.04.2023 and thus, affirming all the previous impugned orders passed by the Subordinate Authorities. Aggrieved by the same, the petitioner is before this Court by way of filing the present writ petition.

3. Learned counsel for the petitioner has vehemently contended that the petitioner is seriously prejudiced by the impugned orders passed by the Subordinate Authorities as the same are in violation of the principle of nature justice. He has submitted that the petitioner had filed his objections to the proposed mode of partition dated 20.05.2016 but the same was illegally declined by the Assistant Collector on 17.11.2017. He submits that there is a huge difference between the value of the land which is partitioned as the land in Killa Nos.98-99 is more valuable than the land comprised in rectangle Nos.49-50 as the land falling in Killa Nos.98 & 99 is adjacent to Ghandra bypass road and is canal irrigated.

He submits that he filed a revision before the Commissioner, Rohtak Division and the impugned order passed by the Subordinate authority was stayed vide order dated 30.01.2019. But the Assistant Collector, Ist Grade, Sampla continued with the proceedings and the petitioner was proceeded *ex parte* and Naksha 'KH' was accepted. He submits that on 01.04.2019, Naksha 'G' was placed on file and ultimately the partition proceedings were continued despite the stay granted. He submits that the Sanad Taksim was issued on 15.07.2021. He vehemently contended that the proceedings were carried out in a hasty manner and thus, the impugned orders were passed totally ignoring the objections raised by the petitioner. He submits that in view of the facts and circumstances, the impugned orders passed are totally unsustainable in the eyes of law and thus, deserves to be set aside.

4. The Court has heard the petitioner and perused the record.

5. It is apparent from the arguments raised by learned counsel for the petitioner and from the record that the total area sought to be partitioned is 61 kanal. The mode of partition was prepared on 20.05.2016 and the petitioner was given an opportunity for filing objections. He duly filed his objections and the same were considered. On consideration of the same, the learned Assistant Collector declined the same vide order dated 17.11.2017. The petitioner duly agitated the same by way of filing the appeal before the Collector, Sampla. On hearing both the sides, the appeal was declined as no merit was found in the same. The petitioner thereafter assailed the same by way of filing the revision before the Commissioner, Rohtak Division, Rohtak. On hearing both the sides,

the same was also declined by the Commissioner by passing the impugned order dated 21.08.2019. Thereafter, the petitioner filed the revision under Section 16 of the Haryana Land Revenue Act before the Financial Commissioner. It was re-appreciated and resultantly, the same was declined by order dated 06.04.2023. It has been observed that as per Jamabandi of 1960-61, the land in Killa Nos.98-99 was *barani*. The land is about 2-3 Killa away from the Ghandra bypass road and the same has been made cultivable by installing the tubewell. This Court in “**Ranbir Singh vs. Financial Commissioner, Haryana and others**”, 2005(3) RCR (Civil) 385 has held as under:

“We have heard counsel for the petitioner, perused the pleadings, as also the impugned orders. It is no doubt true that the Punjab Land Revenue Act does not provide a remedy against the final order of partition, which is concluded by the drawing up of the “Sanad Takseem”. However, as has been held in Raja Ram alias Rajender and another's case (supra), the final order of partition can be impugned by filing a writ petition under Article 226 of the Constitution of India. However, while examining the orders, passed in partition proceedings, this Court does not appraise the correctness thereof as an appellate or revisional forum. This Court while exercising its writ jurisdiction, would confine itself to examine any legal infirmities in the proceedings. Examination of findings of fact would be beyond the purview of this Court's jurisdiction”.

6. Keeping in view the over all facts and circumstances, no infirmity was found in the mode of partition and resultantly, after following the procedure, the Sanad Taksim had been issued on 15.07.2021. The Authorities made efforts of preventing small fragments of the land and thus, found the partition to be in accordance with the

mode of partition.

7. In view of the above, this Court does not find any illegality or perversity in the impugned orders passed and thus, this petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

04.07.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No