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

CWP No.25322 of 2023 (O&M)

Date of Decision: 16.12.2023

Balbir Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Kusum Raj, Advocate
for the petitioner.

Mr. Gaurav Arora, Advocate
for caveator/respondents No.6 and 7.

RAJESH BHARDWAJ, J.

CM-20730-CWP-2023

Instant application has been filed for placing on record the site plan (Map) as Annexure P-8.

For the reasons recorded in the application, the site plan (Map) is ordered to be taken on record as Annexure P-8.

CWP-25322 of 2023

Present writ petition has been filed for quashing the order dated 21.07.2023 (Annexure P-7) passed by respondent No.1, order dated 18.11.2021 (Annexure P-5) passed by respondent No.2, order dated 13.02.2020 (Annexure P-4) passed by respondent No.3 and order dated 26.07.2019 (Annexure P-3) passed by respondent No.4 and subsequent issuance of Sanad Taksim dated 13.03.2020 and warrant of possession

(Annexure P-6) being illegal, null and void and against the provision of Punjab Land Revenue Act whereby the objection filed by the petitioner against “Naksha Beh” has been rejected without considering the fact that the “Naksha Beh” has been prepared in violation of the mode of partition dated 05.02.2019. Further prayer has been made for staying the operation of the impugned orders (Annexures P-3 to P-7) passed by respondents No.1 to 4.

The present petition emanates from the partition proceedings carried out between the parties. The petitioner having aggrieved by the order passed by the revenue authorities approached the Court of learned Financial Commissioner wherein the submissions made by the petitioner were rejected and the petition was dismissed vide impugned order dated 21.07.2023.

Learned counsel for the petitioner has submitted that the petitioner is the co-sharer along with the private respondents in the property in dispute. She submits that respondents No.5 to 7 had filed the petition under Section 111 of the Punjab Land Revenue Act on 17.07.2015 for the partition of the joint land measuring 71 kanals and 3 marlas comprised in Khewat No.98 situated in village Jhanjhari, Tehsil Nilokheri, District Karnal as per Jamabandi for the year 2011-12. She has submitted that in response to the same, the other co-sharers appeared and filed their objections on the ground that their land had already been partitioned in a private partition proceedings. She submits that on filing the petition, the mode of partition was prepared and objections were

invited. After hearing both the sides, the mode of partition was approved on 05.02.2019. She submits that thereafter Naksha Beh was prepared and objections were invited by the Assistant Collector 2nd Grade, NiloKheri. She has submitted that the petitioner filed the objections against the proposed Naksha Beh but the same were rejected by the Assistant Collector IInd Grade without considering the facts and circumstances of the case vide his order dated 26.07.2019. She submits that aggrieved by the same, the petitioner filed an appeal before the learned Collector. She submits that the learned Collector without appreciating the facts and circumstances of the case, declined the appeal filed by the petitioner vide his order dated 13.02.2020. She submits that being aggrieved, the petitioner filed the revision petition before the Commissioner. However, the Commissioner also failed to appreciate the evidence on record and the law settled and thus, dismissed the same vide impugned order dated 18.11.2021. She submits that aggrieved by the same, the petitioner filed ROR before the learned Financial Commissioner. However, the same was also illegally dismissed vide order dated 21.07.2023. She has submitted that the partition proceedings have been carried out in violation of the mode of partition approved. She has submitted that total land put to the partition was measuring 71 kanals and 03 marlas and there were four co-sharers in the same. She submits that as per mode of partition, 03 kurrahs were to be carried out and further the possession was to be kept intact. She has submitted that as per the site plan, it is apparent that possession of the petitioner has been disturbed and he has

been allotted the land in violation of the mode of partition. She submits that the petitioner had half of the share in the total land to be partitioned but he has been given the land of less value by disturbing his possession. Thus, she submits that as the partition proceedings are in violation of the settled principles of law, the impugned orders deserve to be set aside by remanding the case for decision afresh.

Learned counsel appearing on behalf of the caveators has opposed the submissions made by learned counsel for the petitioner. He has submitted that the partition proceedings have been carried out in accordance with the relevant provisions of Haryana Land Revenue Act. He has submitted that the petitioner was duly served and he filed his objections. He submits that the objections were considered and mode of partition was amended as well. He submits that there is no violation whatsoever of the mode of partition. He has submitted that the petitioner had half of the share in the total land to be partitioned and thus, he has been given the share which abuts the road. He has submitted that there are no fragmentation made in the land allotted to the petitioner. He has submitted that out of his total share, the petitioner is disputing the allotment of the land which measures only 04 kanals. He has submitted that no prejudice whatsoever has been caused to the petitioner. He has submitted that the Sanad Takseem i.e. the final instrument of partition has also been issued on 13.03.2020. Thus, the present petition being devoid of any merit deserves to be dismissed.

I have heard learned counsel for the parties and perused the record.

After hearing learned counsel for the parties and perusing the record, it is evident that the partition proceedings were initiated by respondents No.5 to 7 on 05.02.2019. Out of the total land measuring 71 Kanals and 3 marlas, the petitioner was the owner of almost half of the share of the land. The specific contention made in the mode of partition was to keep the possession intact. On perusal of the partition proceedings carried out and the site plan produced, it is apparent that the same has been followed. The only grievance raised by learned counsel for the petitioner is regarding the allotment of the land measuring 4 kanals. However, keeping in view the over all facts and circumstances, the respondents authorities in the larger interest of all the co-sharers prevented the fragmentation of the land.

Thus, in the over all facts and circumstances of the case, no material irregularity is found to have been committed and accordingly, in the considered opinion of this Court, no prejudice is found to have been caused to the petitioner while partitioning the land. Hence, finding no infirmity in the impugned order passed, the present petition being devoid of any merit is hereby dismissed.

16.12.2023

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(RAJESH BHARDWAJ)

JUDGE

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