

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

CWP-24286-2023

Date of Decision: 30.10.2023

Onkar Singh and another

..... Petitioners

Versus

Financial Commissioner, Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Malhar Singh Dhami, Advocate, for the petitioners.

Rajesh Bhardwaj, J.

Prayer in the present petition is for quashing of the impugned partition of land order dated 06.10.2016 (Annexure P-5) and Sanad Takseem order dated 06.02.2017 (Annexure P-6) passed by respondent No.2 and order dated 25.08.2023 (Annexure P-7) passed by respondent No.1 and further for remanding the case to AC 1st Grade, Talwara (respondent No.2) for deciding the partition case afresh in a fair manner and in accordance with law.

Learned counsel for the petitioners has submitted that the petitioners and the private respondents are the co-sharers and have been cultivating the land in village Nimoli (Hadbast No.593), Tehsil Mukerian District Hoshiarpur. He submits that on 13.02.2004, respondents No.3 to 8 filed two separate applications. One of the applications was filed for partition of land measuring 15K-7M in Khewat No.242/225 Khatoni No.330 Khasra No.318/4 (15-7) and another application was filed for partition of land measuring 8K-16M in Khewat No.243/226 Khatoni No.331 and Khewat No.430/416, Khasra No.318/1 (0-6), 318/2 (0-19), 319/2 (7-11). Third application dated 04.02.2016 for partition of land measuring 7K-11M bearing Khewat No.430/417 Khatoni No.567, Khasra No.319/2 (7-11), was

also filed by respondents No.4 & 7. He submits that on 11.02.2016 without there being any order on record, only one mode of partition for entire land was approved. He submits that at the behest of respondents No.3 to 8, all the above said partition applications were clubbed together and partition of the land was allowed vide order dated 06.10.2016. It is submitted that Sanad Takseem was prepared and issued vide order dated 06.02.2017, which is totally unsustainable in the eyes of law. It is further submitted that the petitioners alongwith respondent No.9 filed a revision petition dated 25.09.2017 under Section 16(1) of the Punjab Land Revenue Act, 1887 challenging the order dated 06.10.2016 and Sanad Takseem dated 06.02.2017 before respondent No.1, however, respondent No.1 illegally declined the same vide impugned order dated 25.08.2023. He has submitted that the partition has been done at the behest of respondents No.3 to 8. He submits that as the partition proceedings have been carried out in mechanical manner, the same deserves to be set aside.

Heard.

After hearing learned counsel for the petitioners and perusing the record, it is apparent that the applications for the partition were filed by respondents No.3 to 8. Field staff prepared the documents of partition as per the mode of partition. On the filing of the applications, *Mushtri Munadi* was conducted and the publication was made in the newspapers. Mode of partition was approved and the objections were also called. The petitioners filed their objections, which were duly appreciated. The petitioners were heard regarding their objections and the partition proceedings were carried out as per the terms and conditions of the mode of partition. Learned Assistant Collector 1st Grade thus, passed the order dated 06.10.2016.

Pursuant to the same, Sanad Takseem was issued on 06.02.2017. The petitioners filed ROR No.728 of 2017 impugning the orders dated 06.10.2016 and 06.02.2017 before the Financial Commissioner. Notices were issued by the learned Financial Commissioner to the respondents and counsel for both the sides were heard. Record was re-appreciated and it was found that the petitioners did not raise any objection to the mode of partition in spite of many opportunities granted to them by the Assistant Collector 1st Grade. The objections filed by the petitioners to the *Nakshas* were considered duly and the *Nakshas* were prepared accordingly. The partition proceedings were found to have been carried out as per the mode of partition. Thus, the objections raised by the petitioners to the mode of partition at the time of revisional stage were found to be without any substance. The authorities below have given the concurrent findings on the facts and finding no merit in the revision petition, the same was dismissed. Thus, the orders passed by the authorities below were upheld. On the appreciation of the evidence on record, this Court does not find any infirmity in the conclusion drawn by the authorities below, thus, the present petition being devoid of any merit is hereby dismissed.

30.10.2023
sharmila

Whether Speaking/Reasoned
Whether Reportable

(RAJESH BHARDWAJ)
JUDGE

: Yes/No
: Yes/No