

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

**Sr. No.128**

**LPA-775-2023 (O&M)**

**Date of decision: 09.10.2023**

Khurshid and another

....Appellants

Versus

Financial Commissioner, Haryana and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL  
HON'BLE MRS. JUSTICE SUKHVINDER KAUR**

Present: Mr. Talim Hussain, Advocate, for the appellants.

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**DEEPAK SIBAL, J. (Oral)**

1. Through the present intra court appeal is challenged the order dated 10.11.2022 passed by a learned Single Judge of this Court dismissing the appellants' writ petition being CWP-6311-2021 – Khurshid and others vs. Financial Commissioner, Haryana and others.

2. The private respondents filed an application before the Assistant Collector 1<sup>st</sup> Grade Punhana, District Nuh (for short – the AC) seeking therein partition of the land detailed in the application. On being put to notice, appellant No.2 appeared before the AC on 30.12.2016 and appellant No.1 on 12.01.2017. The AC granted both the appellants opportunities to file their objections but since they did not do so, their defence was struck off on 15.03.2017. Thereafter, Naksha 'K', Naksha 'KH' and finally through order dated 26.03.2018, the AC ordered that Sanad partition in the form of Naksha 'G' be prepared.

3. The appellants challenged the order of the AC dated

26.03.2018 through a revision petition which was dismissed on 04.02.2020 by the Financial Commissioner, Haryana (for short – the FC). Against the order of the FC the appellants filed a petition before this Court being CWP-6311-2021 – Khurshid and others vs. Financial Commissioner, Haryana and others. Their petition was disposed of by this Court on 22.04.2021 through which order the appellants were granted one opportunity to file their objections before the AC. The order of this Court dated 22.04.2021 was challenged by the private respondents through an intra court appeal being LPA-576-2021 – Jharmal vs. Khurshid and others. In their appeal the private respondents complained that the learned Single Judge had decided the appellants' writ petition without any notice to the private respondents. A Division Bench of this Court set aside the order of the learned Single Judge dated 22.04.2021 and disposed of the aforesaid appeal with a further direction to the learned Single Judge to decide the appellants' petition, in accordance with law. In pursuance to the order passed by the Division Bench, a learned Single Judge after hearing learned counsel for the appellants arrived at a conclusion that the AC had granted to the appellants adequate opportunities to file their objections which were not availed of by them and therefore, the appellants were not entitled to any further opportunity. Accordingly, the appellant's petition was dismissed through the order under challenge in the instant appeal.

4. Learned counsel for the appellants submits that appellant No.1 resides about 200 kilometres away from the office of the AC; therefore, he could not file his objections to the partition proceedings and all that the

appellants are seeking is to be granted only one opportunity to file their objections to the partition proceedings in the absence whereof they would be prejudiced for all times to come.

5. Learned counsel for the appellants has been heard and with his able assistance the record of the case has also been perused.

6. In the partition proceedings filed by the private respondents before the AC, both the appellants were duly served. In fact appellant No.1 appeared before the AC on 12.01.2017 while appellant No.2 put in appearance on 30.12.2016. Thereafter, the AC granted them opportunities to file their objections but they did not. Resultantly, through order dated 15.03.2017 the AC struck off the appellants' defence. They did not challenge such order. Rather, they continued to participate in the proceedings before the AC. Thereafter, Naksha 'K', Naksha 'KH' and finally Sanad partition in the form of Naksha 'G' was prepared. During the course of these proceedings also no objections were ever raised by the appellants. Thus, they allowed the proceedings to reach the final stage. Only when the final partition was not to their liking did they chose to question the entire proceedings before the AC on the ground that adequate opportunity had not been granted to them by the AC to file their objections. In the afore facts, they would be estopped from doing so. Even otherwise, the record reveals that the AC granted adequate opportunities to the appellants to file their objections.

7. In the light of the above, no error, factual or legal, is found in the order dated 10.11.2022 passed by the learned Single Judge.

- 8. Dismissed.
- 9. No costs.

(DEEPAK SIBAL)  
JUDGE

(SUKHVINDER KAUR)  
JUDGE

October 09, 2023  
*Jyoti I*