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

CWP-27174-2023
Decided on 04.12.2023

Parkash Kaur …Petitioner

Versus

Financial Commissioner and others … Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amarjit Singh Virk, Advocate, for the petitioner.

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RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for setting aside the order dated 06.09.2023 (Annexure P-12) passed by respondent No.1 dismissing ROR No.139 of 2020-21 and order dated 05.11.2018 (Annexure P-10) of respondent No.2 effecting partition of Khewat No.35 total area 37 kanal 08 marla in revenue estate Mussapur (Hadbast No.353), Tehsil Thanesar, District Kurukshetra by issuing instrument of partition and remanding the case back to respondent No.2 for deciding the same afresh on merits by providing opportunity of hearing to the petitioner.

It has been contended by learned counsel for the petitioner that respondents No.9 to 12 filed an application seeking partition of total land measuring 37 kanal 08 marla bearing Khewat No.35 situated in village Mussapur on 22/23.06.2016. He submits that in response to the application filed for partition, respondents No.3 to 8 filed their written statement claiming them to be in possession of Khewat No.35. Mode of partition was approved wherein it was agreed that the partition would be carried out keeping the possession intact. He submits that respondent No.2 approved *Naksha Alif* on

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30.01.2017. He submits that the petitioner purchased land measuring 3 kanal 2 marla 3 sarsai being 1/12 share out of land measuring 37 kanal 8 marla on 12.06.2017 and possession of the land was handed over to the petitioner by the vendor. He further submits that on 16.08.2017 mutation was sanctioned in favour of the petitioner. It is submitted that the mode of partition as already submitted was approved by providing that out of the total land measuring 37 kanal 8 marla, total 05 parcles will be carved out one each for 4 applicants and 5th one for respondents therein. He submits that *Naksha Bai* was was approved on 09.08.2018 and *Naksha Zeem* was approved on 30.10.2018. It is submitted that thereafter, *Sanad Taksim* was approved on 05.11.2018. He submits that aggrieved by the same, the petitioner filed a revision petition before respondent No.1, however, the same was illegally dismissed in contravention to the settled law. It has been further submitted by learned counsel for the petitioner that at the time of partition though possession was to be kept intact, however, the same has been disturbed by allotting different land to the petitioner. He submits that the petitioner has been given land of inferior quality. It is submitted that respondent No.1 dismissed the revision petition filed by the petitioner by observing that as the petitioner had purchased the land during the partition proceedings from respondent No.8, thus, it was not necessary to afford any opportunity of hearing to her, which is totally wrong and in violation of principle of natural justice. He submits that the impugned orders dated 06.09.2023 and 05.11.2018 being totally unsustainable in the eyes of law and are liable to be set aside by remanding the case for decision afresh.

After hearing learned counsel for the petitioner and perusing the record, it is apparent that the partition proceedings were initiated at the behest of respondents No.9 to 12 on 22/23.06.2016. It was fairly submitted by learned

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counsel for the petitioner that the petitioner purchased the share of respondent No.8 during the partition proceedings. Mode of partition was approved wherein it was agreed that possession would be kept intact. However, it is apparent that on filing the partition proceedings, notices were issued by the authorities and the co-sharers were duly served. Thus, the vendor of the petitioner was a party to the partition proceedings and was provided opportunity to file his objections, if any to the partition proceedings. Once the vandee purchased the share of the co-sharer, then he steps into shoes of the vendor. There is nothing on record to show that the vendor was restrained from exercising his rights during the proceedings. Counsel for the petitioner has drawn the attention of this Court to the site plan and has fairly submitted that the petitioner was allotted her land in the rear portion, but *Rasta* has been provided as an access to her land. *Sanad Taksim* has already been issued. Once the *Sanad Taksim* has been issued, the partition proceedings are complete. Thus, this Court does not find any material irregularities committed by the respondent-authorities in partition effected. Thus, finding no merit in the present petition the same is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

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

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