

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

CWP-4248-2024

Date of Decision: 10.04.2024

Mohan Lal

..... Petitioner

Versus

Commissioner Division Ambala and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Rajender Kumar, Advocate, for the petitioner.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing the order dated 25.10.2023 (Annexure P-6) passed by the Commissioner, Division Ambala by virtue of which revision against the order dated 03.03.2023 (Annexure P-5) passed by the Collector, Naraingarh against the order dated 11.04.2022 (Annexure P-4) passed by the Assistant Collector Grade-II (Tehsildar), Naraingarh vide which objections of the petitioner were dismissed and passed the order for *Sanad Takseem* of the suit property is against all consequential partition proceedings being violative of Mode of Partition, violative of principle of *Audi Alteram Partem* and the rules made there under and Chapter XVIII of Punjab Land Manual and rules made there under and violative of settled law that *Sanad Takseem* cannot be issued against the Mode of Partition and violative of Articles 14 and 16 of the Constitution of India.

2. It has been submitted by learned counsel for the petitioner that respondent No.4 filed an application for partition of land measuring 3 Kanals 7 Marlas comprising Khewat No.296, Khatoni No.349, 350 Khasra No.27//24/2 (0-17), 27//25/1 (2-0) on 07.04.2021 before respondent No.3 i.e. Assistant Collector IInd Grade, Naraingarh. He submits that respondent

No.4 also filed a Civil Suit No.171 of 27.04.2021 regarding partition of the said land. It is submitted that the petitioner filed an application raising the objections before the Assistant Collector IInd Grade, Naraingarh, however, learned Court without applying its judicious mind, dismissed the same vide order dated 11.04.2022. He submits that aggrieved by the same, the petitioner filed an appeal before learned Collector, who also illegally dismissed the same vide impugned order dated 03.03.2023. Still aggrieved by the same, the petitioner filed a revision petition before the Court of learned Commissioner, Ambala Division, however, learned Commissioner, has also fallen in error in not appreciating the submissions made by counsel for the petitioner and thus, has illegally dismissed the same vide impugned order dated 25.10.2023. He submits that this is an admitted fact that construction has been raised on the property under partition and respondent No.4 already filed a Civil Suit for the partition of this land, thus, the same could not be made part of the partition proceedings as the revenue authorities have no jurisdiction to partition the *Gair Mumkin* land. It is further submitted that respondent-authorities having failed to appreciate the evidence on record and the law settled, have passed the impugned orders, which being unsustainable in the eyes of law, deserve to be set aside.

3. The Court has heard learned counsel for the petitioner and with his able assistance perused the record.

4. After hearing learned counsel for the petitioner and perusing the record, it is apparent that respondent No.4 filed an application for partition of the land as mentioned above. Notice was issued by the Assistant Collector IInd Grade. Thereafter, the petitioner filed his objections by way of an application for rejection of the application filed for partition. Learned

Assistant Collector IInd Grade after hearing both the sides, found that in

Khasra No.27//24/2 there are constructed houses and thus, the same is *Gair Mumkin*. Finding the same, Assistant Collector IInd Grade observed that jurisdiction to partition the *Gair Mumkin* land, lies with the Civil Court, however, he found that Khasra No.27//25/1 is irrigation/agricultural land and thus, the revenue authorities had the jurisdiction to entertain the application filed for partition qua this Khasra number and thus, decided to proceed with the partition proceedings qua Khasra No.27//25/1 after leaving Khasra No.27//24/2, which was *Gair Mumkin*, hence, objections filed by the petitioner were rejected by him vide order dated 11.04.2022. Aggrieved by the same, the petitioner filed an appeal before learned Collector, however, finding no merit in the same, the same was dismissed. Thereafter, revision petition filed by the petitioner was also dismissed by the Commissioner vide impugned order dated 25.10.2023. Thus, it is evident that respondent-authorities have entertained the partition proceedings only qua Khasra No.27//25/1 after leaving Khasra No.27//24/2 which is *Gair Mumkin*. Thus, the revenue authorities have proceeded with the partition proceedings as per their jurisdiction.

5. In the considered opinion of this Court, there is no infirmity in the orders passed by the authorities below. Hence, the present petition being devoid of any merit is hereby dismissed.

10.04.2024
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Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No

(RAJESH BHARDWAJ)
JUDGE