

118

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

CWP No.4065 of 2024

Date of decision: 28.02.2024

Om Parkash @ Om Singh

..... Petitioner

Versus

The Financial Commissioner, Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Ashwani Gaur, Advocate
for the petitioner.

Mr. Satpal Bhasin, Advocate
for the caveator/respondent No.6.

RAJESH BHARDWAJ J.

Present writ petition has been filed for quashing the order dated 20.12.2023 (Annexure P-11) passed by the Financial Commissioner-respondent No.1; the order dated 23.12.2014 (Annexure P-10) passed by the Commissioner-respondent No.2; order dated 14.11.2014 (Annexure P-8) passed by the Collector-respondent No.3 and order dated 15.04.2011 (Annexure P-4) passed by the Assistant Collector 1st Grade-respondent No.4. Further prayer has been made for setting aside the instrument of partition dated 12.06.2012 (Annexure P-5) passed by

the Assistant Collector 1st Grade-respondent No.4 and directing the parties to this *lis* to maintain status quo during the pendency of the present petition.

It has been submitted by learned counsel for the petitioner that respondents No.5 & 6 filed an application for partition of the land measuring 160 Kanals 11 Marlas situated within the revenue estate of village Kurar Ibrahimpur, Tehsil and District Sonipat on 02.06.2008. He has submitted that reply to the same was filed by the petitioner wherein it was stated that oral settlement had already taken place during the life time of their father and since then, the parties are owners in possession of their respective share of the land. He has submitted that amended mode of partition was prepared on 18.03.2010 and respondents No.5 & 6 had filed their objections to the same on 06.05.2010. He submits that Naksha Be (Kha) was prepared and the petitioner filed his objections to the same. The objections filed by the petitioner were dismissed by the learned Assistant Collector 1st Grade, Sonipat vide order dated 15.04.2011. Being aggrieved, the petitioner assailed the same by way of filing an appeal before the Collector, Sonipat. He submits that during the pendency of the appeal filed by the petitioner, the Assistant Collector 1st Grade issued the instrument of partition (Sanad Taksim) on 12.06.2012 and thereafter, the appeal filed by the petitioner was dismissed by the Collector on 11.01.2013. Still being aggrieved, the petitioner assailed the same by way of filing an appeal before the Commissioner. The learned Commissioner accepted the appeal filed by the petitioner vide his order dated

20.12.2013 and thus, remanded the case to the Collector for a decision afresh. He submits that after the remand order passed by the Commissioner, the Collector again dismissed the appeal vide his order dated 14.11.2014. He further submits that respondents No.5 & 6 filed the execution petition for execution of judgment and decree dated 16.08.2013 but the Executing Court dismissed the execution petition vide order dated 20.08.2016. He submits that the revision petition was dismissed by the Commissioner in *limine* vide order dated 23.12.2014. He submits that aggrieved by the same, petitioner approached the learned Financial Commissioner by way of filing revision petition but the learned Financial Commissioner as well has fallen in error and thus, illegally dismissed the revision petition vide impugned order dated 20.12.2023. He has submitted that though in the revenue record, the partition proceedings have been shown to be completed and symbolic possession is shown to have been transferred but in real no physical possession has been transferred till date and the parties are still in possession of the land which was prior to the partition. He submits that Naksha Bey was prepared in violation of the mode of partition and thus, possession of the petitioner was disturbed. He submits that Sanad Taksim was illegally issued during the pendency of the appeal but the authorities below have failed to appreciate the same and thus, have arrived at a wrong conclusion, which is unsustainable in the eyes of law. He further submits that the impugned orders passed being unsustainable in the eyes of law, deserve to be set aside.

Heard.

On 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.5 & 6 whereby an application for partition of land was filed. On the basis of the same, the mode of partition was prepared vide order dated 18.03.2010 and the objections filed against the Naksha Be (kha) were decided on hearing the parties and thereafter rejected vide order dated 15.04.2011. The same was challenged by the petitioner before the Collector, who vide his order dated 11.01.2013 dismissed the same by observing that Sanad Taksim had already been issued. However, the Commissioner vide his order dated 20.12.2013 accepted the appeal filed by the petitioner and remanded the case to the Collector for decision afresh. It was directed that the Collector would decide the case afresh after visiting the spot. The Collector, on re-hearing and visiting the spot, dismissed the same vide order dated 14.11.2014. The revision petition filed was also dismissed in limine by the Commissioner on 23.12.2014. It is apparent from the record that the Commissioner remanded the case to the Collector with a specific direction to make a spot inspection and as per the record available, the same was complied with by the Collector as he has passed the order dated 14.11.2014 after inspecting the spot as was directed by the Revisional Court. The Sanad Taksim was issued on following the necessary laid down procedure. It was found during the spot inspection that a constructed valuable house was only on the land which was allotted

to the parties. Thus, there was no violation of the mode of partition was found to have been committed in effecting the partitioning of the land.

There is no gainsaying that some of the adjustments in partition proceedings are to be made out as the same are unavoidable. In the overall facts and circumstances of the case, there is no patent illegality found to have been committed and thus, the revenue authorities have carried out the partition proceedings as per the laid down procedure.

Resultantly, this Court does not find any infirmity in the impugned orders passed. Thus, the present petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

28.02.2024
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No