

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-4172-2024 (O&M)
Date of Decision: 09.09.2024

Sat Narain

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sunil Kumar Goswami, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

HARSH BUNGER J. (ORAL)

CM-14456-CWP-2024:

Prayer in the present application is for placing on record certain documents as Annexures P-11 to P-13.

For the reasons mentioned in the application, the documents (Annexures P-11 to P-13) are taken on record, subject to all just exceptions.

Application is accordingly disposed of.

CWP-4172-2024:

The present writ petition has been filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 22.07.2014 (Annexure P-4) passed by the learned Assistant Collector, 2nd Grade, Uchana, Jind, whereby *Naksha Bey* was confirmed, and order dated 04.09.2014 (Annexure P-7) passed by the learned Assistant Collector, IInd Grade, Uchana, whereby *Sanad Takseem*

(Instrument of Partition) was issued; with a further prayer to remand the matter to the learned Assistant Collector, IInd Grade, Uchana, for deciding the partition proceedings afresh.

1.1 It is also prayed that order dated 02.09.2016 (Annexure P-6) passed by the learned Collector, Narwana and order dated 30.10.2023 (Annexure P-10) passed by the learned Financial Commissioner, Haryana; whereby the appeal and revision petition filed by the petitioner were dismissed, respectively; be set aside.

2. Briefly, respondents No.5 to 7 filed application dated 15.04.2008 (Annexure P-1) before the learned Assistant Collector, 2nd Grade, Uchana, seeking partition of joint land measuring 149 Kanal-2 Marla, situated in the Revenue Estate of Village Alipura, Sub Tehsil Uchana, Tehsil Narwana, District Jind. In the said partition proceedings, the Mode of Partition was approved vide order dated 20.01.2009 (Annexure P-2) and *Naksha Bey* was approved vide order dated 04.03.2013 (Annexure P-3) passed by the learned Assistant Collector, 2nd Grade, Uchana.

2.1 The aforesaid order dated 04.03.2013 (Annexure P-3), was challenged by the petitioner and other co-sharers, namely Prem Kumar and Naresh Kumar sons of Tilak Ram, by way of filing an appeal before the learned Collector, Narwana; however, the same was dismissed vide order dated 29.04.2014.

2.2 Thereafter, the learned Assistant Collector, 2nd Grade, Uchana called for *Naksha Zeem* from the field staff vide its order dated 22.07.2014 (Annexure P-4).

2.3 The said order dated 22.07.2014 (Annexure P-4) was challenged by the petitioner by way of filing an appeal before the learned

Collector, Narwana. During pendency of the said appeal, *Sanad Taksim* came to be issued on 04.09.2014 (Annexure P-7); consequently, the said appeal was dismissed by the learned Collector, Narwana vide its order dated 02.09.2016 (Annexure P-6), on the ground of jurisdiction.

2.4 Further, the petitioner preferred a revision petition (ROR-128/2016-17) before the learned Financial Commissioner, Haryana, which was dismissed vide order dated 30.10.2023 (Annexure P-10).

3. In the aforementioned circumstances, the petitioner has filed the present writ petition before this Court seeking relief(s), as noticed hereinabove.

4. Learned counsel for the petitioner submits that the learned Revenue Authorities have erred in law and fact in passing the impugned order(s). It is submitted that in the final partition, land has been allocated to the co-sharers in small fragments, which has rendered the land incapable of cultivation and irrigation. It is further submitted that as per the Mode of Partition, the possession of parties were to be kept in view; however, in the final partition, possession of the petitioner has been disturbed. Learned counsel further submits that the petitioner had produced an alternate plan for partition of the joint land before the learned Financial Commissioner, whereupon a report was called from the Assistant Collector; however, without considering the said alternate plan, the learned Financial Commissioner dismissed the revision petition filed by the petitioner vide impugned order dated 30.10.2023 (Annexure P-10).

4.1 With the aforesaid submissions, learned counsel for the petitioner has prayed for setting aside the impugned order(s) and remanding the matter to the learned Assistant Collector, 2nd Grade, Uchana, for conducting fresh partition proceedings.

5. Heard.

6. In the present case, learned counsel for the petitioner has placed on record the alternate partition plan as Annexure P-12. Upon comparison of the same with the site plan (Annexure P-11), which depicts the manner in which partition has already been carried out by the revenue authorities; it is observed that in the proposed alternate partition plan, petitioner has carved out contiguous chunk of land for himself, whereas, the area proposed to be allocated to the other co-sharers is carved out in two blocks/fragments, which has been created either by the passages or by the water courses, as depicted in the site plan (Annexure P-12).

6.1 On the other hand, as per site plan (Annexure P-11), all the co-sharers have been allocated land in two blocks and even the passages and water courses have been provided therein.

7. The final partition (as has already been carried out) appears to be fair, equitable and justified, whereas, the proposed alternate partition plan (Annexure P-12) only makes the petitioner better off than the other co-sharers, as has also been observed by the learned Financial Commissioner, Haryana vide its order dated 30.10.2023 (Annexure P-10).

8. Keeping in view the totality of circumstances, I do not find any merit in the instant writ petition and the same is accordingly dismissed.

9. All the pending application(s), if any, shall also stand closed.

09.09.2024

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No