

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

CWP-5243-2024

Date of decision : 06.03.2024

Baljinder Singh and another

.....Petitioners

versus

Santosh Singh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Sandeep Kumar Bokolia, Advocate
for the petitioners.

Mr. R.S. Chauhan, Advocate
for the caveators-respondents.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside the impugned order dated 11.12.2023 (Annexure P-1) passed by the learned Financial Commissioner, Punjab vide which the revision petitions bearing No.ROR/178/2021 and ROR No.492/2021 filed by the petitioners, have been wrongly dismissed and the impugned orders dated 10.02.2021 (Annexure P-2) passed by learned Sub Divisional Magistrate, Talwandi Sabo, District Bathinda vide which the appeal filed by the petitioners against the order dated 06.11.2020 was wrongly dismissed and impugned order dated 06.11.2020 (Annexure P-3) passed by learned Assistant Collector Ist Grade, Talwandi Sabo, District Bathinda vide which Naksha Bey has been wrongly sanctioned in the partition case bearing No.291 titled as Baljinder Singh and others Vs. Santokh Singh and others and impugned order dated 18.12.2020 (Annexure P-4) passed by learned Assistant Collector 1st Grade, Talwandi Sabo pertaining to land measuring 164 kanals 7 marlas bearing Khewat No.73 Khatoni No.160 Khasra

No.109/2 (10-10), 110/2 (11-13), 111/12(11-8), 112/2 (11-8), 113/2(9-7), 308/1 (21-5), 840/3 (24-5), 841/2 (11-0), 842/1 (18-15), 843/2 (21-14), 844/2 (13-2) situated at Village Behman Kaur Singh, Tehsil Talwandi Sabo, District Bathinda, which are illegal arbitrary and contrary to the mode of partition dated 17.12.2019 (Annexure P-6) wherein it is mentioned that the partition shall be made on the basis of the respective possession of the parties and the impugned sanad taksim wrongly issued by learned Assistant Collector 1st Grade, Talwandi Sabo District Bathinda on 10.01.2024 (Annexure P-5). Further prayer has been made for remanding back the case before the learned Assistant Collector Ist Grade for deciding the naksha bey and naksha jeem afresh in accordance with sanctioned mode of partition deed dated 17.12.2019 (Annexure P-6) and as per the respective possession of the parties.

Petitioners earlier approached this Court by way of filing CWP-2898-2024 wherein the same order dated 11.12.2023 passed by the learned Financial Commissioner was assailed. However, as the *sanad taksim* was issued, learned counsel for the petitioners prayed for withdrawal of that writ petition with liberty to the petitioners to approach the learned Financial Commissioner by way of filing the revision petition in accordance with law. Thus, that petition was allowed to be dismissed as withdrawn by this Court vide order dated 22.02.2024 with liberty to the petitioners as prayed for.

Learned counsel for the petitioners in the present case had impugned the orders dated 11.12.2023 passed by the learned Financial Commissioner; 10.02.2021 passed by learned Sub Divisional Magistrate, Talwandi; 06.11.2020 & 18.12.2020 passed by learned Assistant Collector Ist Grade, Talwandi Sabo. The *sanad taksim* issued on 10.01.2024 has

also been assailed by way of the present petition.

Learned counsel for the caveators-respondents has opposed the maintainability of this petition as the earlier writ petition i.e. CWP-2898-2024 was disposed of by this Court vide order dated 22.02.2024 wherein the petitioners had withdrawn the petition with liberty to the petitioners to file the revision petition before the learned Financial Commissioner. However, learned counsel for the petitioners has submitted that in view of the judgment titled as Ranbir Singh Vs. Financial Commissioner, Haryana and others passed in CWP-7419-2005 decided on 23.05.2005, the writ petition is maintainable after issuance of the *sanad taksim*.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the Hon'ble Division Bench in *Ranbir Singh's case (supra)* had observed in Para 9 of the judgment as follows:-

“We have heard counsel for the petitioner, perused the pleadings, as also the impugned orders. It is no doubt true that the Punjab Land Revenue Act does not provide a remedy against the final order of partition, which is concluded by the drawing up of the “sanad takseem”. However, as has been held in Raja Ram @ Rajender and another Vs. Tehsildar-cum-Assistant Collector, IInd Grade, Hisar and others, 2001(2) RCR(Civil) 739 (P&H):2001(1) PLJ 1, the final order of partition can be impugned by filing a writ petition under Article 226 of the Constitution of India.”

It has been observed by the Hon'ble Division Bench that though the writ petition under Article 226 of the Constitution of India can be filed however, while exercising the jurisdiction under Article 226 of the Constitution of India, this Court would confine itself to examine any

legal infirmity in the proceedings and the examination of the findings on the facts would be beyond the jurisdiction of this Court. However, counsel for the petitioners has vehemently assailed the impugned order passed on the basis of the facts of the case which is beyond the jurisdiction of the writ Court. Even otherwise, on coming to know about the issuance of *sanad taksim*, learned counsel for the petitioner had withdrawn the earlier petition to avail their remedy of filing the revision petition before the learned Financial Commissioner but that remedy they have not availed. Thus, this Court does not find any force in the arguments raised by counsel for the petitioners and hence, this Court finds that the present petition is not maintainable and accordingly, the same is hereby dismissed. However, the petitioners would be at liberty to avail their remedies as granted by this Court while disposing of the earlier petition i.e. CWP-2898-2024 vide order dated 22.02.2024.

06.03.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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