

130

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

CWP No.7653 of 2024

Date of decision: 04.04.2024

Rajpati

..... Petitioner

versus

Financial Commissioner, Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Amit Kashyap, Advocate
for the petitioner.

RAJESH BHARDWAJ J.

1. Present writ petition has been filed for quashing the order dated 21.12.2023 (Annexure P-10) of the Financial Commissioner, Haryana whereby he dismissed the revision petition under the Haryana Land Revenue Act, 1887 against the order dated 24.11.2022 whereby the Commissioner, Karnal Division, Karnal accepted the petition of respondent against the order dated 16.09.2021 of Collector, Kaithal whereby he had accepted the appeal of the petitioner against the order dated 04.07.2019 of Assistant Collector 1st Grade, Pundari and rejected the objections of the petitioners under Section 111(C) of Haryana Land Revenue Act, 1887 i.e. illegal, non-est, perverse and non-speaking in nature. Further prayer has been made for staying the proceedings before AC 1st Grade, Pundari, District Kaithal during the

pendency of the present petition and for setting aside the order dated 25.05.2023.

2. It has been contended by the Ld. Counsel for the petitioner that respondent No.4 filed an application under Section 111 of the Haryana Land Revenue Act, 1887 (hereinafter referred to as 'the Act') on 10.07.2015 against the predecessor-in-interest of the petitioner for partition of the land measuring 10 kanals and 5 marlas in Khewat No. 710 situated at Village Karora, Tehsil Pundari, District Kaithal. He submits that reply to the application was filed and thereafter Naksha 'Alif' was called. The mode of partition was prepared. He submits that the petitioner filed objections to the same and thereafter, Naksha 'Bey' was prepared by the Halqa Kanungo. He submits that the petitioner filed the objections to Naksha 'Bey' as the same was prepared against the mode of partition. He submits that share of the petitioner in the land under partition is 7 Kanals 11 Marlas and that of respondent No.4 is 2 Kanals 14 Marlas. He submits that the objections filed by the petitioner were not considered by the Assistant Collector 1st Grade and thus the same were illegally dismissed and Naksha 'Bey' was illegally accepted. Being aggrieved, the petitioner approached the learned Collector, Kaithal by way of filing an appeal. On hearing both the sides, the learned Collector set aside the order passed by the Assistant Collector 1st Grade and directed the Assistant Collector 1st Grade for preparation of Naksha 'Bey' afresh after hearing the objections filed by the petitioner. Being aggrieved by the same, respondent No.4 filed an appeal before the learned Commissioner Karnal Division, Karnal. The appeal filed by respondent No.4 was accepted by the learned

Commissioner vide his order dated 24.11.2022. Aggrieved by the same, the petitioner assailed the order by way of filing the revision petition before the learned Financial Commissioner but the same was illegally dismissed by the learned Financial Commissioner vide impugned order dated 21.12.2023.

3. It has been submitted by the Ld. Counsel for the petitioner that the order dated 04.07.2019 vide which the Naksha 'Bey' was approved is unjust and illegal and the same was assailed by the petitioner before the Appellate Authorities. However, the learned Financial Commissioner had passed the impugned order against the evidence on record and settled principles of partition and thus, he submits that the impugned order deserves to be set aside.

4. Heard.

5. On hearing the learned counsel for the petitioner and perusing the record, it is apparent that the land put under partition measured 10 Kanal 5 Marla in Khewat No. 710, out of which the share of petitioner was 7 Kanal 11 Marla and that of respondent No.4 was 2 Kanal 14 Marla. The precise submission made by learned counsel for the petitioner is that the partition proceedings have been carried out in violation of the mode of partition as more valuable land has been given to respondent No.4 whereas the less valuable land has been given to the petitioner.

6. It is apparent from the record that the whole land measuring 10 Kanal 5 Marla is *Nehri* and thus, there is no difference in any part of the land under partition. On perusal of Naksha 'Bey', the land comprising

in Khasra No. 19/2/2 measuring 1 Kanal 16 Marla is abutting the main road and the same has been allotted to the petitioner whereas the land comprising in Khasra No. 19/2/1 measuring 2 Kanal 13 Marla has been allotted to respondent No.4. Respondent No.4 apparently had less share of the land and from the partition proceedings carried out, it is apparent that the land abutting the road in Khasra No. 19/2/2 has been allotted to the petitioner. In the partition proceedings, some of the variations are always unavoidable. The petitioner was duly served and she was party to the partition proceedings throughout. She duly filed her objections, which were appreciated in accordance with law. The Revenue Authorities however have to take into consideration that no material prejudice is caused to any of the co-sharers.

7. In the overall facts and circumstances of the case, this court does not find any material prejudice caused to the petitioner and thus, there being no infirmity found in the impugned order passed, the present petition being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

04.04.2024

rittu

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