

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

CWP-9253-2024

Date of decision: 24.04.2024

Inder Singh and others

.....Petitioners

versus

Financial Commissioner (Appeals), Punjab, Chandigarh and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Gagandeep Singh Sirphikhi, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the order dated 02.12.2022 (Annexure P-7) passed by respondent No.1; order dated 27.01.2021 (Annexure P-5) passed by respondent No.2 and order dated 14.06.2019 (Annexure P-3) passed by respondent No.3 vide which the application for partition filed by respondents No.4 to 7 had been allowed.

2. It has been contended by counsel for the petitioners that respondents No.4 to 7 filed an application for partition of land measuring 185 kanals 13 marlas on 17.11.2017. Thereafter, the Assistant Collector 1st Grade, Qadian sanctioned the mode of partition on 06.03.2019 and *naksha jeem* was prepared and submitted before the Assistant Collector 1st Grade, Qadian. He submits that respondents No.1 to 3 filed their objections to *naksha jeem* on the ground that the same has not been prepared as per the terms and conditions of the mode of partition. He submits that it was contended that every co-sharer was entitled to the front of the joint holding adjoining to the pucca road in proportionate to their share in the joint holding. He submits that it was duly objected to by the petitioners

that the land has not been allotted to them as per value and quality of land which is violative of the mode of partition. However, respondent No.3 passed the final order of partition on 14.06.2019 without considering the objections filed by petitioners No.1 to 3. Being aggrieved, petitioners filed the appeal before the Collector on 13.08.2019. He submits that the Collector, Batala i.e. respondent No.2 dismissed the same vide order dated 27.01.2021 on the ground that the *sanad taksim* was issued in the partition. Being aggrieved, petitioners filed the revision petition under Section 16 of the Punjab Land Revenue Act, 1887. However, learned Financial Commissioner dismissed the revision petition *in limine* without providing any opportunity of hearing as the same was dismissed in the absence of the petitioners vide order dated 02.12.2022. Thus, it is submitted that learned Financial Commissioner has passed the impugned order in violation of the principles of natural justice and has not appreciated that the orders impugned were totally in violation of the settled principles of partition proceedings. Hence, he submits that the impugned order deserves to be *set aside*.

3. Heard. After hearing counsel for the petitioners and perusing the record, it is apparent that on filing the partition proceedings by respondents No.4 to 7, notice was issued and the petitioners joined as a party to the partition proceedings throughout. However, they never filed any objections to the Naksha “Urre” despite having been granted the opportunities by the Assistant Collector, Qadian. Thereafter, the mode of partition was sanctioned wherein it was agreed that the partition proceedings would be carried out by disturbing the possession. However, no objections were filed against the proposed mode of partition. Hence, the same was approved. However, the objections filed by the petitioners to

the *naksha jeem* was duly considered and decided. The revision petition filed by the petitioners was heard in their absence as the petitioners did not make themselves available despite the repeated calls. It is apparent that the Revisional Court though has decided the revision petition in absence of the petitioners however, the same has been decided on merits keeping in view the facts and circumstances of the case.

4. As per record of the case, it is apparent that the petitioners were party and attending the partition proceedings since beginning and they did not raise any objection at the relevant stages. However, the objections for the first time were raised at the stage of issuance of *naksha jeem*. There is no material illegality or perversity found in the partition proceedings carried out and thus, this Court does not find any perversity in the impugned orders. Some of the variations are always unavoidable in the partition proceedings. Thus, finding no merit in the present petition, the same is hereby dismissed.

24.04.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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