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

CWP No.12749 of 2024

Date of Decision: 27.05.2024

Ajit Singh

..... Petitioner

Versus

Ld. Financial Commissioner (Appeals), Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Yatin Bunker, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

1. Present writ petition has been filed for quashing/setting aside the order dated 24.11.2017 (Annexure P-4) passed by Ld. Assistant Collector 1st Grade, Goraya and all incidental proceedings including Sanad Takseem dated 01.01.2018 (Annexure P-5) being wrong, illegal, arbitrary, discriminatory, perverse & defective; order dated 20.03.2019 (P-6) passed by the Ld. S.D.M-cum-Collector, Phillaur, District Jalandhar; order dated 07.12.2020 (Annexure P-8) passed by the Ld. Commissioner, Jalandhar Division, Jalandhar being wrong, illegal, arbitrary, perverse, non-speaking, cryptic and contrary to settled principles of law regarding partition of land; order dated 15.11.2023 (Annexure P-10) passed by the Ld. Financial Commissioner (Appeals),



Punjab being wrong, illegal, arbitrary, perverse, non-speaking, cryptic and contrary to settled principles of law regarding partition of land. Further prayer has been made for ex-parte staying all incidental proceedings including order dated 24.11.2017 (P-4) passed by Assistant Collector 1 Grade, Goraya and also Sanad Takseem dated 01.01.2018 (Annexure P-5) being wrong, illegal, arbitrary, discriminatory, perverse & defective and for remanding the case to the Court of Ld. Assistant Collector 1st Grade, Goraya and for conducting the partition proceedings afresh after following the due process of law.

2. It has been submitted by learned counsel for the petitioner that respondents No.5 & 6 had filed 15 applications for partition of the land before the Court of Ld. Assistant Collector, 1st Grade, Goraya on 18.07.2016. However the prescribed procedure under Section 20 of the Punjab Land Revenue Act was not followed in issuing notice to the petitioner and other co-sharers. He submits that the *ex parte* proceedings conducted against the petitioner were challenged by the petitioner, which was allowed on 26.12.2016 and the petitioner was allowed to join the partition proceedings from that stage onwards. He submits that the petitioner filed his objections, however no opportunity of hearing was granted to the petitioner and the partition proceedings were concluded when the sanad takseem i.e. instrument of partition was issued on 01.01.2018. He submits that being aggrieved the petitioner filed an appeal before the learned Collector, Phillaur, District Jalandhar, however the same was illegally declined vide impugned order dated 20.03.2019.



He submits that still being aggrieved the petitioner filed the revision before the learned Commissioner, Jalandhar Division, Jalandhar, who again failed to appreciate the evidence on record in the light of the law settled and thus, illegally dismissed the same vide his impugned order dated 07.12.2020. Hence the petitioner further assailed the same by way of filing the revision petition before the learned Financial Commissioner (Appeals), Punjab. However, the learned Financial Commissioner equally failed in appreciating the law settled and hence, illegally declined the same vide impugned order dated 15.11.2023. Hence the petitioner is before this Court by way of filing the present petition.

3. It has been submitted by learned counsel for the petitioner that the Revenue Authorities have failed to appreciate that the Gair Mumkin area was included in the partition proceedings which is against the principle of partition. He submits that no objections were invited to Naksha Zeem, even otherwise the Naksha Zeem was not prepared as per the mode of partition. He submits that as per the mode of partition, the petitioner was to be allotted a separate block but the same has not been allotted to the petitioner and thus, the mode of partition has been violated. He thus submits that the sanad takseem issued is totally unsustainable in the eyes of law. He has relied upon “*M/s Kranti Associates Pvt. Ltd & Anr. vs. Sh. Masood Ahmed Khan & Ors.*”, 2010(4) RCR(Civil) 600; “*Pritam Singh versus Jaskaur Singh*”, 1992 PLJ 435 and “*Jamil versus Hassan Mohammad and others*”, 2014(3) RCR (Civil) 324; “*Balbir Chand vs. Financial Commissioner (Appeals-II), Punjab and*



others”, 2010(2) RCR (Civil) 263 and “*Jagir Singh vs. State of Punjab*”, 2013(2) PLR 795 and thus submits that the partition proceedings being against the principles of natural justice and in violation of the mode of partition, deserve to be set aside.

4. Heard.

5. On hearing learned counsel for the petitioner and perusing the record, it emanates that the partition proceedings were initiated by respondents No.5 and 6. The Naib Tehsildar passed the Naksha Arra and Naksha Iri after rejecting the objections filed by the petitioner vide order dated 24.11.2017. The appeal filed by the petitioner before the learned Collector was dismissed vide order dated 20.03.2019 and the revision filed was dismissed by the Commissioner vide order dated 07.12.2020.. Thereafter the revision petition filed before the learned Financial Commissioner was also dismissed on 15.11.2023. It has been revealed from the record that on filing the applications for the partition, the spot inspection was done on 26.12.2016. The mode of partition was proposed on 03.01.2017 wherein it was proposed to be done by keeping the possession intact. The other side did not appear on 14.03.2017, however 10 opportunities were granted and receiving no objection, the mode of partition was confirmed on 28.03.2017. Naksha Bey and Naksha Zeem were ordered to be prepared. On 25.07.2017, the Naksha Bey and Naksha Zeem was prepared. The petitioner filed his objections on 25.09.2017. As revealed from the order passed by the Assistant Collector dated 24.11.2017, the petitioner was granted 9 to 10 opportunities to get his



statement recorded but he never got his statement recorded. Thus, receiving no objection, the Assistant Collector approved Naksha Bey and Naksha Zeem on 25.07.2017. The appeal was filed before the Collector. No infirmity was found in the order passed by the Assistant Collector. Besides this the sanad takseem had already been issued and thus, the Collector dismissed the same vide his order dated 20.03.2019. It was further assailed before the learned Commissioner by way of filing the revision petition, the petitioner failed to point out any illegality in the partition proceedings arrived at and the fact that despite having been granted various opportunities, he did not file the objections. Thus the same has been dismissed. It was further appreciated by the learned Financial Commissioner in the revision petition filed. The contentions raised by the petitioner were not substantiated from the record of the case. Once the petitioner chose not to file his objections besides the opportunities granted, the sanad takseem i.e. final instrument of partition issued cannot be held illegal simply on the basis of allegations.

6. The learned counsel for the petitioner has failed to point out any substantial prejudice caused to the petitioner. Thus, this Court finding no infirmity in the impugned orders passed, the present petition is hereby dismissed.

27.05.2024
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(RAJESH BHARDWAJ)
JUDGE

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