

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16131-2022 (O&M)
Date of decision: 24.04.2024

SantraPetitioner

versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. V.P. Sangwan, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

Mr. Ajay Vijorania, Advocate
for respondents No.6 and 7.

RAJESH BHARDWAJ, J. (Oral)
CM-2607-CWP-2023

Application is allowed as prayed for.

Annexure P-7 is taken on record.

Main case

Prayer in the present petition is for setting aside the impugned order dated 25.01.2022 (Annexure P-6) passed by the Divisional Commissioner, Rohtak and further for setting aside order dated 14.09.2021 (Annexure P-5) passed by Sub Divisional Officer (Civil) whereby well reasoned order (Sanad Taksim) Final Instrument of partition dated 29.11.2018 passed by the Assistant Collector 1st Grade, Charkhi Dadri was set aside.

Brief facts of the case are that petitioner filed a partition application before the Assistant Collector 2nd Grade, Charkhi Dadri wherein Smt. Poonam was impleaded as respondent No.6 and she was duly served. Learned Assistant Collector 2nd Grade issued mode of

partition on 25.10.2018 and *naksha bey* was prepared on 13.11.2018 which was never challenged by the respondents and final instrument of partition was passed on 11.01.2019. Respondent No.5-Jagdish filed an appeal before the Sub Divisional Officer/Collector, Charkhi Dadri on the ground that the partition proceedings were held at the back of respondent. Learned Collector after hearing both the parties accepted the appeal and *set aside* the impugned order and the matter was remanded back for fresh decision after allowing the appellant to be a party in the partition proceedings. Against this order dated 14.09.2021, the present petitioner filed revision under Section 16 of the Punjab Land Revenue Act before the Divisional Commissioner, Rohtak but after hearing the parties, the Divisional Commissioner, dismissed the revision by upholding the order of Collector dated 01.09.2021. Aggrieved by the same, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has submitted that admittedly *sanad taksim* has already been issued before the decision is rendered by the Collector and as such, the appeal before the Collector was not maintainable but learned Collector has fallen in error by allowing the appeal of the appellant. He has further stated that the revision filed by the petitioner before the Commissioner was wrongly accepted by him without appreciating the true facts and the law settled and as such, both these orders are liable to be *set aside*.

On the other hand, learned State counsel has also stated that after issuance of *sanad taksim*, the remedy available to the parties is before the Commissioner and not before the Collector and the appeal filed before the Collector was in fact not maintainable.

Learned counsel for respondents No.6 and 7 could not controvert the abovesaid submissions made by counsel for the petitioner that the appeal was not maintainable before the Collector.

Heard. After hearing counsel for the parties and perusing the record, it is apparent that the Collector travelled beyond his jurisdiction by allowing the appeal which was not actually maintainable before him as *sanad taksim* was already issued and as such, the order passed by the Collector is without jurisdiction. Similarly, the revision filed against the order dated 14.09.2021 passed by Collector also could not have been entertained by the Commissioner but both these authorities have fallen in error in not exercising their jurisdiction in a proper way and as such, both the orders dated 25.01.2022 and 14.09.2021 are *set aside*. The party, if any, aggrieved by the issuance of *sanad taksim* can avail its remedy before the Commissioner as per law.

Petition is disposed of accordingly.

24.04.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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