

2024:PHHC:134984



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

CWP-15653-2024 (O&M)
Date of decision :15.10.2024

CHANDRO AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. D.P.S. Bajwa, Advocate
for the petitioners.

HARSH BUNGER, J. [ORAL]

Prayer in the present writ petition filed under Articles 226/227 of the Constitution of India is, *inter-alia*, for issuance of a writ in the nature of *certiorari*, for setting aside order dated 20.09.2018 (Annexure P-5) passed by learned Assistant Collector Ist Grade, Narwana; order dated 08.01.2019 (Annexure P-6) passed by the learned Collector, Narwana; order dated 04.06.2019 (Annexure P-7) passed by the learned Divisional Commissioner, Hisar Division, Hisar and order dated 13.07.2023 (Annexure P-9) passed by the learned Financial Commissioner (Revenue), Haryana.

2. Briefly, respondents No.5 to 16 filed an application for partition of joint land, measuring *215 Kanal 2 Marla*, situate at Village Dhakal, Tehsil Narwana, District Jind. The present petitioners appeared in the said partition proceedings and submitted their reply. The mode of partition was prepared, according to which, the partition was to be carried

out by keeping the possession intact. Thereafter, *Naksha Bey* was called from the Field Staff and upon receipt of the same, objections thereto were called.

2.1 It appears that the petitioners submitted their objections to *Naksha Bey* by stating that the possession of the co-sharers has not been kept intact and the land has been divided into small parcels, which has rendered the same as non-cultivable. It was also stated that *Killa No.198//24/1* was wrongly given to the petitioners, which is not worth cultivation. The afore-said objections filed by the petitioners to *Naksha Bey* were rejected vide order dated 20.09.2018 (Annexure P-5) passed by the learned Assistant Collector Ist Grade, Narwana.

2.2 Being aggrieved, the petitioners challenged the afore-said order dated 20.09.2018 (Annexure P-5) by filing an appeal before the learned Collector, Narwana, which was dismissed vide order dated 08.01.2019 (Annexure P-6).

2.3 A further revision petition filed by the petitioners before the learned Commissioner, Hisar Division, Hisar was also dismissed vide order dated 04.06.2019 (Annexure P-7). It appears that the *Sanad Takseem* came to be issued by the learned Assistant Collector Ist Grade, Narwana, vide order dated 27.02.2019 (Annexure P-8).

2.4 It further transpires that the petitioners challenged the afore-said partition proceedings/orders along with the *Sanad Takseem*, by filing a revision petition (***ROR No.627 of 2021-22***) before the learned Financial Commissioner, Haryana, however, the same was also dismissed vide order dated 13.07.2023 (Annexure P-9).

2.5 In the afore-mentioned circumstances, the petitioners have filed the present writ petition before this Court.

3. Learned counsel for the petitioners submits that the Revenue Authorities have partitioned the joint land in an arbitrary manner. It is next submitted that the fore-fathers of the parties had entered into a mutual settlement and in terms of the said settlement, the respective parties were in possession of their due share; however, respondents No.5 to 16 had claimed partition of joint land in violation of the afore-said settlement.

3.1 During the course of hearing, learned counsel for the petitioners has handed over a copy of the coloured site plan in Court today, which is taken on record and marked as 'Mark X'.

3.2 While referring to the afore-said site plan, learned counsel for the petitioners has submitted that the joint land has been partitioned by carving out strips of land for the different co-sharers, which has rendered the land un-cultivable. It is further submitted that the partition has been carried out by disturbing the possession of the co-sharers. It is also submitted that some of the co-sharers have been granted more frontage on the National Highway. Accordingly, it is contended that the partition in question is un-fair, inequitable and unsustainable in the eyes of law.

4. Heard.

5. As regards the contention of the petitioners that the partition has been carried out by disturbing the possession of the co-sharers, it is observed that in the mode of partition, there is no clause that the partition would be carried out by keeping the possession intact. Rather Clause 2 of the Mode of Partition (Annexure P-3) provides that the partition shall be carried out as per quality/value of land under partition i.e. good for good and bad for bad. It is the pleaded case of the petitioners that some of the co-sharers have been granted more frontage on the National Highway.

Since in the coloured site plan (Mark 'X'), the National Highway has not

been depicted, accordingly, a pointed query was raised to the learned counsel for the petitioners to indicate from the site plan as to where and on which side, the National Highway passes through or adjoining the land, under partition.

5.1 Upon this, learned counsel for the petitioners has stated that the National Highway passes from the “eastern side” of Khasra No.8/2, 13/1, 12/1, 19/2/1, 19/2/2, 19/2/3, 20/2, 21/1/1, 21/1/2, 21/1/3.

5.2 The afore-said fact that the National Highway runs just adjoining the land under partition, clearly substantiates Clause No.2 of the Mode of Partition, providing for partition as per quality/value of land. It is not disputed that the entire land under partition falls on the National Highway and each co-sharer is entitled to frontage on the National Highway proportionate to his share in the joint land. Evidently, all the co-sharers have been allocated land in a manner that proportionate frontage on the National Highway has been provided.

5.3 It has not been shown by the learned counsel for the petitioners as to how the frontage allocated to the different co-shares is disproportionate to their shares in the joint land. Accordingly, I do not find any merit in the contention of the petitioner that the land has been partitioned by disturbing the possession or that some of the co-sharers have been given more frontage on the National Highway. Therefore, both the afore-said contentions are rejected.

5.4 As regards the contention that the parties were in possession of their respective shares in terms of mutual settlement between the forefathers of the parties, it is observed that no such settlement has been brought on record and in the absence of the same, no finding can be returned thereon.

6. In my considered view, the final partition as carried out in the present case is fair, just and equitable, which does not call for any interference by this Court.
7. No other argument has been raised.
8. Accordingly, I do not find any merit in the instant writ petition and the same is, hereby, dismissed.
9. All pending applications (if any) shall also stand closed.

October 15, 2024

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Whether speaking/reasoned:

Whether reportable:

(HARSH BUNGER)

JUDGE

Yes/No

Yes/No