

110 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25495-2024 (O/M)
Date of decision : 11.11.2024

Karnail Singh Petitioner(s)

Versus

State of Punjab and others Respondent(s)

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Krishan Kanha, Advocate
for the petitioner(s).

Mr. Navneet Singh, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Karnail Singh) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 23.03.2021 (Annexure P-5), passed by learned Collector, Sub Division Bhawanigarh (in short 'Collector'), whereby he had set aside the order dated 30.04.2019 (Annexure P-4), passed by learned Assistant Collector 1st Grade, Bhiwanigarh, District Sangrur. A further prayer has been made for setting aside the order dated 07.04.2024 (Annexure P-9), passed by learned Commissioner, Patiala Division, Patiala (in short 'Divisional Commissioner') and also the order dated 06.05.2024 (Annexure P-11), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner'), whereby an appeal and

revision petition (ROR-293-2024), filed by the petitioner, were dismissed, respectively.

2. Briefly, petitioner (Karnail Singh) and his brother-Chand Singh (respondent No. 6 herein) were joint owners of land, comprised in two villages, namely, Harditpura and Balad Kalan. It is stated that a family settlement dated 09.01.2004 was arrived at between the aforesaid brothers, wherein it was decided that whole of the land shall be divided between the parties equally by respecting their respective possession.

2.1 In the year 2006, petitioner filed two separate applications for partition of joint land situated in both the villages. In the long drawn partition proceedings, Naksha 'Bey' came to be approved, vide order dated 30.04.2019 (Annexure P-4).

2.2 It transpires that the aforesaid order dated 30.04.2019 (Annexure P-4) came to be challenged by respondent No. 6 (Chand Singh) by preferring an appeal before the learned Collector, which came to be allowed, vide order dated 23.03.2021 (Annexure P-5) and the matter was remanded for fresh adjudication.

2.3 The present petitioner challenged Collector's order dated 23.03.2021 (Annexure P-5) by filing an appeal before learned Divisional Commissioner, however, the same was dismissed, vide order dated 07.02.2024 (Annexure P-9). A further revision (ROR-293-2024), filed before learned Financial Commissioner was also dismissed, vide order dated 06.05.2024 (Annexure P-11).

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

4. During the course of arguments, learned counsel for petitioner has raised two fold arguments that learned Collector, while allowing the appeal filed by respondent No. 6 (Chand Singh), vide order dated 23.03.2021 (Annexure P-5), has wrongly cancelled the path/pahi, carved out from Khasra No. 520 and 521 for Khasra No. 511/2 and 814/509/2 and has further erred in directing that the parties be allotted frontage on the Bhawanigarh-Patiala main road by combining the total area falling in both villages.

5. I have considered the aforesaid two submissions raised on behalf of the petitioner; however, I do not find any merit in the same for the reasons mentioned herein-after.

5.1 Learned Collector upon perusal of record and considering the factual position existing at site (as revealed upon spot inspection), concluded as under:

- i. Land of the parties fall in two villages Balad Kalan and Harditpura;
- ii. The joint land of both the parties is located on the boundary of both these villages;
- iii. In Naksha 'Arra', the passage provided in village Harditpura, out of Khasra No. 520 and 521, for going to Khasra No. 511/2 and 814/509/2, has been wrongly provided because the area which has been allocated to Karnail Singh out of Khasra No. 511/2 and 814/509/2, that area already falls on the Bhawanigarh-Patiala main road and touches rasta of Gram Panchayat

village Harditpura falling on common boundary of village Balad Kalan and Harditpura; therefore, the rasta provided out of Khasra No. 520 and 521 is not required at the spot.

- iv. The area of the parties falling in Khasra No. 1808/1469, 1811/1470 and 1814/1471 of village Balad Kalan already falls on the Bhawanigarh-Patiala main road and touches the rasta of Gram Panchayat village Harditpura, which falls on the common boundary of village Balad Kalan and Harditpura. This rasta further touches the area of the parties falling in Khasra No. 520, 521 etc. of village Harditpura, therefore there is no requirement of providing any other passage.

5.2 The learned counsel representing the petitioner has not disputed the factual position that the joint land of both the parties is located in two villages Balad Kalan and Harditpura and the same is located on the boundary of both these villages. It is also not disputed that some part of the joint land under partition falls on the Bhawanigarh-Patiala main road, which further touches the rasta of Gram Panchayat village Harditpura, falling on the common boundary of village Balad Kalan and Harditpura.

5.3 On the basis of abovesaid factual position existing at the spot, the Learned Collector ordered that the passage provided in village Harditpura, out of Khasra No. 520 and 521, for going to Khasra No. 511/2 and 814/509/2; be deleted. Learned Collector further rejected

the demand of Sh. Chand Singh S/o Sh. Santa Singh, for proving another passage to area of the parties falling in Khasra No. 1808/1469, 1811/1470 and 1814/1471 of village Balad Kalan, as the said area was already on the Bhawanigarh-Patiala main road, which further touches the rasta of Gram Panchayat village Harditpura (falling on the common boundary of village Balad Kalan and Harditpura). Accordingly, the appeal filed by Sh. Chand Singh was partly allowed and the matter was remitted to the learned Assistant Collector with a direction to add the total area of the parties falling in both villages and then partition the frontage of the area falling on Bhawanigarh-Patiala main road, according to shares of the parties.

5.4 Learned counsel for the petitioner has failed to point out as to how the aforesaid directions issued by the learned Collector are inequitable or arbitrary. In my considered opinion, the learned Collector has taken a fair, balanced and an equitable view by ordering that the frontage of the area falling on Bhawanigarh-Patiala main road, be partitioned according to shares of the parties by adding the joint land of the parties falling in both villages.

5.5 As regards the direction issued by learned Collector for deletion of the passage provided in village Harditpura, out of Khasra No. 520 and 521, for going to Khasra No. 511/2 and 814/509/2, the same also appears to be well reasoned as those Khasra Nos. 511/2 and 814/509/2 already falls on the Bhawanigarh-Patiala main road, which further touches rasta of Gram Panchayat village Harditpura falling on common boundary of village Balad Kalan and Harditpura.

6. No other argument has been raised.

7. Keeping in view the aforementioned facts and circumstances,
I do not find any merit in the instant civil writ petition and the same is
accordingly dismissed.

8. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

11.11.2024
sjks

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