

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

2024:PHHC:133820-DB



(116)

LPA-2454-2024

Date of Decision: 14.10.2024

Ami Chand & others

--Appellants

Versus

State of Haryana & others

--Respondents

**CORAM:- HON'BLE MR. JUSTICE G.S. SANDHAWALIA.
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA.**

Present:- Mr. S.S. Khurana, Advocate for
the appellants.

G.S. SANDHAWALIA.J (Oral)

1. The present appeal is directed against the order dated 09.09.2024 passed by learned Single Judge in CWP-21268-2024, whereby learned Single Judge has declined to interfere in the partition proceedings initiated by the private respondents.

2. Learned Single Judge examined the merits including the site plan and came to the conclusion from the location and layout of the land under partition which has been carried out while preparing Naksha "Bey" was justified. The relevant portion of judgement reads as under:-

"7. Learned counsel appearing for the petitioners has failed to dislodge the aforesaid observations made by the learned Collector as well as learned Divisional Commissioner. It has not been shown as to which clause of mode of partition has been violated or as to what prejudice has been caused to the petitioners by the manner in which the partition has been carried out.

7.1 I have also carefully perused Annexure P-4, which is a site plan indicating the manner in which the partition was

earlier proposed in Naksha “Bey”. In this site plan (Annexure P-4), the land allocated to the petitioners is shown in orange colour. It is clearly evident that earlier the petitioners were allocated land in two separate parcels shown in orange colour. However, from a perusal of Annexure P-6, which is a site plan indicating the manner in which the land has been allocated to the petitioners and respondent No. 5 after approval of amended Naksha “Bey”, it is clear that now the petitioners have been allocated contiguous land (in red colour) and it is respondent No. 5, who has been allocated land in two separate parcels shown (in green colour).

7.2 *Considering the location and layout of the land under partition (as evident from Annexure P-6), in my view, the manner in which the partition has been carried out while preparing Naksha “Bey” is fair, equitable and justified.*

8. *In view of the aforementioned facts and circumstances, there is no scope for any interference by this Court in the impugned orders. Resultantly, the instant civil writ petition fails and the same is accordingly dismissed.*

9. *Pending application (s), if any, shall also stand closed.”*

3. Respondent no.5 had moved an application for partition of joint land measuring 47 kanal situated in village Jhamuwas Tehsil Tauru, District Nuh. Apparently, the partition proceedings were contested being not maintainable and the appellants had not acceded to the partition request.

4. We have gone through the proposed mode of partition, whereby two khewats were to be created and partition was to be done by taking care of possession and quality and provisions of chakbandi. The area abutting the road or residential area was given as per share and possession and possession of house and tubewell etc. had to be given accordingly.

Apparently, when Naksha “Bey” was prepared, the appellants, at that point of time had been given two separate chunks and one of the chunks lay

across the water channel. The appellants' land has been consolidated in view of the objections filed (Annexure P-5) and land has been consolidated, as noticed by learned Single Judge. The chunk across the water way has now been given to the private respondent.

5. In such circumstances, we are of the considered opinion that the distribution which has been done is to facilitate the proper cultivation by putting the parties in separate chunks so that they can utilize their holdings for proper cultivation. We do not find any reason to come to a different opinion than what has been recorded by the learned Single Judge merely because now the appellants have been divested of the area across the water channel bearing Killa No.22/1 and the decision to reopen the partition proceedings was only on account of the objections raised by the appellants. The appellants, thus, cannot blow hot and cold all the time and as per the mode of partition also, it has been recorded that the partition which has been done, apparently, seems to be keeping in view the basic principles of best utilization of land and the consolidation of land holdings.

6. Resultantly, we do not agree with the arguments, which have been now raised by learned counsel for the appellants that a particular chunk of land was more valuable, while the appellants have not been allotted. Accordingly, there is no merit in the present appeal and the same is hereby dismissed.

(G.S. SANDHAWALIA)
JUDGE

14.10.2024
lucky

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No