

134 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-27786-2024 (O/M)

Date of decision : 16.10.2024

Satpal and another

..... Petitioners

Versus

Financial Commissioner, Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Lupil Gupta, Advocate
for the petitioners.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Petitioners (Satpal and another) have 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 of the orders dated 16.05.2016 and 02.06.2016 (Annexure P-2 and Annexure P-3, respectively), passed by learned Assistant Collector 2nd Grade, Dabwali alongwith Sanad Takseem dated 16.06.2016 (Annexure P-4).

1.1 A further prayer has been made for setting aside of the order dated 29.01.2024 (Annexure P-6), passed by learned Financial Commissioner, Haryana (in short 'Financial Commissioner'), dismissing the revision petition (ROR-444-2016).

2. Briefly, respondent No. 3-Sukhmander Singh filed an application seeking partition of joint land, comprised in Khewat No. 206,

as per Jamabandi for the year 2001-02. In the said partition proceedings, the predecessor in interest of the petitioners, namely Sh. Sohan Lal s/o Mool Chand s/o Mehar Singh was impleaded as respondent No. 17. Sh. Sohan Lal appeared in the aforesaid partition proceedings and contested the same. The concerned Assistant Collector sanctioned the mode of partition, vide order dated 16.05.2016 (Annexure P-2) and Naksha 'Bey' was called from the field staff. Upon receipt of Naksha 'Bey', objections thereto were called. Upon considering the objections, Naksha 'Bey' was approved and Naksha 'Jeem' was called, vide order dated 27.07.2010.

2.1 It appears that order dated 27.07.2010 was challenged by Sh. Sohan Lal (predecessor-in-interest of petitioners), which came to be allowed by learned Collector, vide order dated 01.03.2012 and the matter was remanded to learned Assistant Collector to decide the partition case on merits after making spot inspection.

2.2 It transpires that learned Collector's order was further challenged in a revision petition before learned Financial Commissioner, which came to be disposed of, vide order dated 04.12.2014, wherein a direction was issued to decide the partition case in a time bound manner in accordance with sanctioned mode of partition.

2.3 It appears that thereafter vide an order dated 21.04.2015, an amended Naksha 'Bey' was approved and Naksha 'Jeem' was called. An appeal against aforesaid order dated 21.04.2015, filed by Sohan Lal (predecessor of petitioners), was also dismissed by learned Collector, Dabwali. However, in the meantime, vide an order dated 16.05.2016 (Annexure P-2), the final order of partition was passed, which came to be

amended subsequently, vide order dated 02.06.2016 (Annexure P-3) and thereafter, sanad takseem dated 16.06.2016 (Annexure P-4) was issued.

2.4 The aforesaid partition orders as well as sanad takseem were challenged by Sh. Sohan Lal (predecessor of petitioners) by filing a revision petition (ROR-444-2016) before learned Financial Commissioner. It appears that present respondents No. 6 to 8 also filed their separate revision petition i.e. ROR-316-2016 before learned Financial Commissioner. Both the said revision petitions came to be dismissed, vide order dated 29.01.2024 (Annexure P-6). Hence, the instant civil writ petition.

3. Learned counsel for petitioners submits that the partition is against sanctioned mode of partition inasmuch as that as per the mode of partition, the partition was to be carried out by keeping the possession intact, whereas in the final partition, the possession of the petitioners has been disturbed. It is further submitted that the petitioners have been given gair mumkin land wherein houses have been constructed. It is next submitted that one of the co-sharers, namely, Raj Singh had expired, however, his legal heirs were not impleaded. It is also submitted that petitioners have been given land in Rect. No.140, Killa No. 16/2 and 17/1 whereas they should have been given land in Killa No. 16/2 and 15/1, which was in their possession. With the aforesaid submissions, prayer has been made for setting aside the impugned orders.

4. Heard.

5. In the present case, the final order of partition was passed and thereafter, sanad takseem (instrument of partition) was also prepared.

The aforesaid partition order as well as sanad takseem was challenged by Sh. Sohan Lal (predecessor of petitioners) by filing a revision petition (ROR-444-2016) before learned Financial Commissioner, which was dismissed alongwith another revision petition, vide order dated 29.01.2024 (Annexure P-6) by observing as under :-

“ After considering the arguments, impugned orders and records on the file, I find the present revision petition without merits. The petitioners mainly argued that more Gair Mumkin land has been allotted to them. However, their statement is not co-terminus with the record. The same reflects that the petitioner Sohan Lal in ROR No. 444 of 2016 has only been allotted 4 K – 17 M. While the said petitioner did not mention the fact that he also got 27K-6M nahri land. Similarly, the petitioner Shyon Lal in ROR No. 316 of 2016 has been allocated 8K-16M land. This land was assigned to him because he had constructed his house and used to possess the same. This petitioner also failed to bring into the notice of this court that he got allocation 48K-12M nahri land. After examining the entire revenue record, it reveals that Gair Mumkin land allocated to the petitioners almost in proportionate to their shares. The respondents have also been allcoated the Gair Mumkin land. Further, the said partition was carried out by the revenue officials on 29.03.2015 in compliance of order of Divisional Commissioner in presence of co-sharers. The DRO-cum-Collector, Dabwali rightly rejected the appeal of the petitioners vide order dated 27.04.2016 specifically stating that land for passage and khals has rightly been carved out from the share of co-sharers as per the rules. Moreover, the present matter was instituted in the year of 2007. The objections of the petitioners were considered thoroughly at every stage of partition. Beside above the

petitioners did not raise any other point of argument. They failed to contend as to how and in what manner, the impugned orders of the lower courts are illegal and warranted an interference of this court. Therefore, partition proceedings must necessarily come to an end when the instrument of partition has already been drawn up.

In view of above discussion, the present revision stands dismissed as the same is devoid of merit.”

5.1 From a perusal of the above extracted order, it is revealed that the objection of petitioners that they have been allocated gair mumkin area has been dealt with by learned Financial Commissioner by observing that the gair mumkin area has been allocated to parties in proportion to their respective shares. It is further observed that apart from gair mumkin area, the petitioners have also been allotted 27 Kanals – 6 Marlas agricultural land.

5.2 As regards the claim of the petitioners that they are entitled to land comprised in Killa No. 16/2 and Killa No. 15/1, the petitioners have not placed on record any material to show that the aforesaid claimed area was under their possession. In the absence of the same, the aforesaid plea of the petitioners cannot be considered.

6. That apart, learned counsel for petitioners has miserably failed to show as to what prejudice/loss has been caused to the petitioners with the manner in which the final partition has been carried out by revenue authorities. Accordingly, in my considered view, no interference is warranted by this Court in the concluded partition proceedings.

7. In view of above discussion, I do not find any merit in the instant civil writ petition and the same is dismissed.

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

(HARSH BUNGER)
JUDGE

16.10.2024

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No