



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

**CWP-28448-2024 (O&M)**  
**Date of decision :13.11.2024**

SULTAN SINGH AND OTHERS

...Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Vikram Singh, Advocate  
for the petitioners.

Ms. Upasana Dhawan, A.A.G., Haryana  
assisted by Mr. Babu Lal, Field Kanungo, Gurugram.

**HARSH BUNGER, J. [ORAL]**

Petitioners have filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of *certiorari*, for setting aside the order dated 07.10.2022 (Annexure P-6) passed by the learned Assistant Collector, 2<sup>nd</sup> Grade, Harsaru, District Gurugram and also the order dated 17.09.2024 (Annexure P-11) passed by the learned Commissioner, Gurugram Division, Gurugram.

A further prayer has been made for upholding the order dated 13.10.2023 (Annexure P-9) passed by the learned Collector, Gurugram.

2. Briefly, respondent No.9 filed an application for partition, wherein the petitioners were also impleaded as parties. The partition was

29K-11M, situated at Village Hayatpur, Tehsil Harsaru, District Gurugram, as per *Jamabandi* for the year 2014-15.

2.1 The present petitioners appeared before the learned Assistant Collector, 2<sup>nd</sup> Grade, Harsaru, District Gurugram and submitted their written statements. Said statements of the parties were recorded and mode of partition was sanctioned on 01.04.2022. Thereafter, the *Naksha Bey* was called for from the Field Staff.

2.2 Petitioners submitted their objections to the *Naksha Bey*; however, the same were dismissed by the learned Assistant Collector, vide order dated 07.10.2022 (Annexure P-6).

2.3 It transpires that the petitioners preferred an appeal against the order dated 07.10.2022 (Annexure P-6) before the learned Collector, Gurugram, which was allowed vide order dated 13.10.2023 (Annexure P-9), whereby the order dated 07.10.2022 (Annexure P-6) was set aside and the matter was remanded to the learned Assistant Collector to give equal frontage to all the parties at the spot and area be given to party who has his tubewell in that area after giving proper path.

2.4 Being dissatisfied with the order dated 13.10.2023 (Annexure P-9), respondents No.5 to 7 preferred an appeal before the learned Commissioner, Gurugram Division, Gurugram; which was allowed vide order dated 17.09.2024 (Annexure P-11), whereby the learned Collector's order dated 13.10.2023 (Annexure P-9) was set aside and order dated 07.10.2022 (Annexure P-6) passed by learned Assistant Collector 2<sup>nd</sup> Grade, Harsaru, sanctioning *Naksha Bey* was upheld.

2.5 In the afore-mentioned facts and circumstances, the present writ petition has been filed before this Court, for seeking relief/s, as noticed here-in-above.

3. During the course of hearing, learned counsel for the petitioners has raised a sole argument that the petitioners have not been given the equal frontage on the main road. It is submitted that the petitioners have been given frontage of 71.5 feet on main road, as against their entitlement of 77 feet.

3.1 On the other hand, learned State counsel has informed the Court that the entire frontage on the main road has already been constructed by the respective co-sharers in the form of shops. It is further informed that during the course of the proceedings before the learned Assistant Collector, the present petitioners had got their statements recorded by attaching a site plan as Annexure 'A' along with their statements wherein, it was stated that they should be provided land as indicated in the afore-said site plan (Annexure 'A'). Learned State counsel further points out that as per Annexure 'A', the petitioners had only sought frontage of 70 ft. It is further stated that in the final partition, the petitioners have been allocated frontage of 71.5 ft. on the main road, which is more than the frontage sought by them.

4. Heard.

5. In the present case, the partition proceedings were initiated by respondent No.9, wherein mode of partition was approved and *Naksha Bey* was called. Apparently, the objections filed by the petitioners to *Naksha Bey* were dismissed by the learned Assistant Collector. Although, the appeal filed by the petitioners against the order dated 07.10.2022 (Annexure P-6) passed by the learned Assistant Collector was allowed by the learned Collector, vide order dated 13.10.2023 (Annexure P-9), however, on a further appeal filed before the learned Commissioner,

Gurugram Division, Gurugram, the Collector's order dated 13.10.2023

(Annexure P-9) has been set aside, by observing as under :-

*“17. Upon a thorough examination of the records and the arguments presented by both parties, it is evident that the Assistant Collector, 2<sup>nd</sup> Grade, Harsaru, had followed due process in preparing Naksha-B. The mode of partition had been sanctioned on 11.03.2022, and the final Naksha-B was drawn up after considering the objections, conducting a detailed site inspection, and taking into account the existing constructions and the needs of all parties.*

*18. The objections raised by the respondents No.1 to 3 regarding the frontage and access were duly addressed. The respondents No.1 to 3 had initially claimed a frontage of 70 feet, but the Naksha-B allotted them 71.5 feet, which exceeded their request. Additionally, the allocation of land for the tubewell and electricity poles had been made in accordance with the site conditions, and no further amendments were necessary. The Assistant Collector's decision to finalize the Naksha-B was based on a fair and reasonable assessment of the situation on the ground.*

*19. The Collector's impugned order, which directed amendments to the Naksha-B, appears to have been made without fully appreciating the factual matrix of the case. The direction to provide equal frontage to all parties is not supported by the evidence, as the respondents had already been given more frontage than they initially requested. Furthermore, the issue of access to the tubewell and other facilities had been adequately addressed by the Assistant Collector as they were duly allotted land where these existed, and there was no need for further intervention. Further, the sale deed executed during the partition proceedings was also brought into question by the respondents. However, this issue does*

*not affect the validity of Naksha-B, as the partition had been carried out in accordance with the law, and the sale deed did not impact the rights of the other parties involved. The Assistant Collector's order was based on a careful evaluation of the site conditions and the needs of all parties, and it does not require any further modification. Therefore, the partition, as sanctioned, is deemed fair and equitable.*

*20. In light of the above, the appeal is allowed, and the impugned order dated 13.10.2023 passed by the Collector, Gurugram, is set aside. The order of the Assistant Collector 2<sup>nd</sup> Grade, Harsaru, dated 07.10.2022, sanctioning Naksha-B, is upheld."*

6. In the above extracted order, the learned Commissioner, Gurugram Division, Gurugram has clearly recorded that the present petitioners had initially claimed a frontage of 70 feet, whereas in *Naksha Bey*, they have been allotted 71.5 feet, which is more than their demand.

7. Learned counsel for the petitioners has failed to dispute the afore-said observations made by the learned Commissioner, Gurugram Division, Gurugram.

8. In view of the above-mentioned facts, once the petitioners themselves had sought 70 feet frontage on the main road and instead, they have been allocated frontage of 71.5 feet, in my considered view, the petitioners have no cause for grievance. It is observed that in a particular case, it may not be possible to carve out blocks of respective co-sharers with exactitude, however, it has to be kept in view that no prejudice or loss has been caused to a co-sharer with the mode/manner in which the partition has been carried out. In the present case, nothing has come on record, which would show that the petitioners have suffered any prejudice or loss, in any manner, in which the partition (as indicated in *Naksha Bey*) has been

carried out. Rather, the partition has been carried out after conducting a site inspection and also taking into account the existing construction and also the need of all the parties.

9. Therefore, there is no scope for any interference in order dated 17.09.2024 (Annexure P-11) passed by learned Divisional Commissioner, accordingly, the present writ petition fails and the same is dismissed.

10. All pending application/s, if any, shall also stand closed.

**November 13, 2024**  
gurpreet

**(HARSH BUNGER)**  
**JUDGE**

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