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

CWP-5491-2024

Date of decision : 21.03.2024

Gulshan Kumar and others**.....Petitioners**

versus

Financial Commissioner Haryana and others**..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Sandeep Parkash Chahar, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 26.04.2023 (Annexure P-5) passed by respondent No.1 and instrument of partition (sanad taksim) dated 25.02.2020 (Annexure P-4) issued by respondent No.2 being illegal, null and void as violating the conditions of mode of partition (Annexure P-2). Further prayer has been made for directing respondents to repartition the land in dispute as per conditions of mode of partition (Annexure P-2) by considering the type and value of land by allotting land to respondent No.3 on one side so that the partition is not only equitable but also justified as both parties will get consolidated parcels.

It has been submitted by counsel for the petitioners that respondent No.2 filed the application for partition on 16.11.2018 of the joint land measuring 19 kanals 5 marlas. It is submitted that the mode of partition was prepared on 03.12.2019 wherein it was agreed that the partition proceedings would be carried out by disturbing the possession

and by keeping in view the value and type of the land. Thereafter, the *naksha kha* was prepared on 07.01.2020 and *naksha jeem* was prepared on 11.02.2020. Finally, *sanad taksim* i.e. the instrument of partition was issued on 25.02.2020. He submits that aggrieved by the instrument of partition, petitioners filed revision petition bearing ROR No.315 of 2020-2021 wherein respondent No.1 has modified/amended the instrument of partition vide his order dated 26.04.2023. He submits that respondents-revenue authorities have failed to appreciate that the total land of respondent No.3 which was the most valuable land as the same is situated adjoining to two roads whereas the petitioners have been allotted inferior land. He submits that the partition proceedings have been carried out in violation of the mode of partition. It is submitted that respondent No.3 is having 1/5th of the share in the total land but the same has not been taken into consideration while carrying out the partition proceedings. It is submitted that the impugned *sanad taksim* being in violation of the principles of partition proceedings deserve to be *set aside*.

Heard. On hearing counsel for the petitioners and perusing the record, it is apparent that the partition proceedings were initiated on 16.11.2018. Notices were issued by the revenue authorities to the co-sharers including the petitioners and petitioners were party to the partition proceedings since beginning. On approval of the mode of partition, no appeal was filed and thus, on the expiry of the limitation period, the *sanad taksim* was prepared as per *naksha jeem*. However, in the revision filed by the petitioners, learned Financial Commissioner has duly appreciated the grievances raised by counsel for the petitioners and on hearing both the sides, he modified *sanad taksim* wherein separate share of the respondent was modified so that the road access was made to her. The dimensions of

the respondent's share along with *rasta* was directed to be increased proportionately. Thus, the grievances raised were redressed by learned Financial Commissioner in accordance with law. On appreciation of the entire material, partition proceedings were carried out. This Court does not find any infirmity in the view taken by learned Financial Commissioner and thus, finding no merit in the present petition, the same is hereby dismissed.

21.03.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No