

130 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-32604-2024 (O/M)
Date of decision : 03.12.2024

Mohit Petitioner

Versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Parminder Singh, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Mohit) 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 11.03.2022 (Annexure P-5), passed by learned Assistant Collector, 1st Grade, Assandh, whereby Naksha 'Bey' in the partition proceedings has been approved. A further prayer has been made for setting aside the order dated 04.01.2023 (Annexure P-6), passed by learned Collector, Assandh, District Karnal (in short 'Collector'), whereby appeal filed by the petitioner against Naksha 'Bey' was partly allowed. Still further, a prayer has been made for setting aside the order dated 14.08.2024 (Annexure P-11), passed by learned Commissioner, Karnal Division, Karnal (in short 'Divisional Commissioner'), whereby revision petition filed by petitioner has been dismissed.

2. Briefly, respondents No. 5 and 6 herein filed an application, seeking partition of joint land measuring 85 kanals – 19 marlas, comprised in Khewat No. 40 (as per jamabandi for the year 2017-18), situated in village Dupedi, Tehsil Assandh, District Karnal, wherein present petitioner was impleaded as party respondent No. 2.

2.1 It transpires that in the aforesaid partition proceedings, the mode of partition was sanctioned by learned Assistant Collector 2nd Grade, Assandh, vide order dated 26.07.2021 (Annexure P-3) and thereafter, Naksha 'Bey' was called from the field staff.

2.2 Upon receipt of Naksha 'Bey', objections thereto were called, whereupon the petitioner appears to have submitted his objections wherein he claimed that he is in possession of Killa No. 13//25, 16/2, 12//23, 3, 7, 14/1 and some portion of land comprised in Killa No. 21//8. A further objection was taken that rasta has been wrongly provided from the land falling in Killa No. 12//23 and 3.

2.3 It appears that learned Assistant Collector rejected the objections submitted by the petitioner and approved Naksha 'Bey', vide order dated 11.03.2022 (Annexure P-5).

2.4 Being dis-satisfied with the aforesaid order dated 11.03.2022 (Annexure P-5), petitioner preferred an appeal before learned Collector, which came to be partly allowed, vide order dated 04.01.2023 (Annexure P-6) by observing as under :-

“ Hence, after carefully perusing all the documents brought up on the case file and after hearing the counsels for both the parties in detail, I have come to the conclusion that some amendment is required in the map 'bai' for partition according to the price, in which both the parties does not have any objection. Complete share in the

direction of khasra No. 13//20/2 min east drain be given to Mohit etc. and in lieu of it, by giving equal land/space in the south-west of khasra no. 12//2, the portion of Ravinder etc. be added so that no type of land is spoiled in the passage. The passage in the centre of khasra no. 12//22, 12//23, 21//2 and 21//3 be also removed and remaining map 'bai' e kept as it is. By prepaing map in such manner, both the parties does not have any objection and both the parties have shown their consent. Hence, order is passed to amend the map 'bai' and to process the file further. A copy of this be sent to the Assistant Collector 1st-cum-Tehsildar, Assandh. After arrangements and compliance, case file be sent to the record room.”

2.5 Still dis-satisfied, petitioner preferred a revision petition before learned Divisional Commissioner, which came to be disposed of, vide order dated 14.08.2024 (Annexure P-11) by observing as under :-

“ After hearing the arguments of learned counsel for both the parties and after perusing and examining the documents brought on the case file, I have come to the conclusion that the amended map 'bai' has been approved on 11.04.2023 by the lower court. There is requirement of amendment/modification in it. Hence, the amendment/modification be done in the amended map 'bai' in the way that the passage which has been given to the land in the east of mustatil and killa No. 12//22 and 21//2/1, on finding out the same not to be correct, in lieu of that 2 karam passage be allotted in the west of mustatil and killa no. 12//22. While modifying the orders passed by the lower court, direction ius given to the Assistant Collector, Grade 1st, Assandh that while doing modification in the amended map 'bai' as mentioned above, the partition proceedings be done further. Order pronounced. Case be consigned to the record room after the compliance.”

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 the possession of the petitioner on Killa No. 13//16/2 and 25 has been wrongly disturbed and that there is no requirement of allocation of land for rasta to the parties.

5. Heard.

6. It is not disputed that the land under partition falls in two separate land parcels located at different places. The petitioner has not raised any dispute as regards partition of second parcels of land comprised in Killa No. 42//12 and 13.

6.1 As regards possession of the parties prior to the preparation of Naksha 'Bey' is concerned, it is observed from Annexure P-8 (site plan-indicating position prior to partition) that the petitioner was in possession of two non-contiguous parcels of land (shown in yellow colour). However, when the position emanating after the preparation of Naksha 'Bey' is seen, it would be evident that the petitioner has been allocated a contiguous piece of land (shown in yellow colour in Annexure P-9).

7. Learned counsel for petitioner has failed to point out as to how the kurra (block) allocated to the petitioner in Naksha 'Bey' (shown in yellow colour in Annexure P-9) is unfair and inequitable. It has also not been pointed out as to whether the petitioner has suffered any loss of area on account of carving out his contiguous block, in the manner indicated in yellow colour in Annexure P-9. In the peculiar facts and circumstances of this case, if possession of petitioner has been disturbed for carving out a contiguous block of land for petitioner, that too at the

place where the petitioner was having possession on major portion of land as per his entitlement, no fault can be found with the same.

8. As regards the contention of learned counsel for petitioner that no rasta should be provided to any of the parties, it is observed that the land allocated to private respondents is shown in green colour in Annexure P-9 and it is easily discernible that the area allotted to respondents falls in two blocks (green colour), and both the said blocks touches each other at a point, which is in the form of a dot i.e. south eastern corner of Killa No. 13//21 and north west corner of Killa No. 21//12.

8.1 In view of the aforesaid factual position as indicated in site plan, if the revenue authorities have provided for rasta for connecting both the land blocks allocated to private respondents, there is no illegality or perversity therein.

9. Considering the totality of the circumstances, I find no compelling reason to interfere in the impugned orders, passed by the courts below. Accordingly, finding no merits in the instant civil writ petition, the same is accordingly dismissed.

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

(HARSH BUNGER)
JUDGE

03.12.2024
sjks

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