



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

CWP-1435-2025 (O&M)
Date of Decision: 19.03.2025

RACHHPAL SINGH AND ANOTHER

...Petitioner

Versus

**LD. FINANCIAL COMMISSIONER (APPEALS),
PUNJAB, CHANDIGARH AND OTHERS**

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Sunny K. Singla, Advocate
for the petitioner.

Mr. Navneet Singh, Sr. D.A.G., Punjab.

HARSH BUNGER, J. (ORAL)

Prayer in the present petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari* for setting aside the order dated 31.01.2017 (Annexure P-10A) passed by the learned Commissioner, Patiala Division, Patiala; whereby, he had set aside the orders dated 20.11.2014 (Annexure P-9) and 16.04.2015 (Annexure P-10) passed by the learned Assistant Collector Ist Grade, Malerkotla and the learned Collector, Malerkotla, respectively.

A further prayer has been made for setting aside the order dated 23.08.2024 (Annexure P-13) passed by the learned Financial Commissioner (Appeals), Punjab; whereby, the revision petition (***ROR-120-2017***) filed by petitioners has been dismissed.

2. Briefly, respondents No.5 and 6, herein filed an application seeking partition of joint land, measuring *29 bigha 15 biswa*, situated at Village Aahankheri, Tehsil and District Malerkotla. The present petitioners appeared before the learned Assistant Collector Ist Grade-cum-Tehsildar, Malerkotla and submitted their reply, *inter alia*, staking a claim for allotment of land comprised in *khasra No.474, 475 and 476*.

2.1 During the course of partition proceedings, the learned Assistant Collector Ist Grade-cum-Tehsildar, Malerkotla, vide order dated 27.01.2014 framed the Mode of Partition and called for *Naksha Bey* from field staff.

2.2 Upon receipt of *Naksha Bey*, objections from the respective co-sharers were sought, whereupon, the present petitioners submitted their objections to the proposed *Naksha Bey*. Thereafter, the spot was inspected and a new *Naksha Bey* was proposed.

2.3 It transpires that respondent Nos.5 and 6, feeling aggrieved against the newly proposed *Naksha Bey*, submitted their objections; however, the same were dismissed by the learned Assistant Collector Ist Grade, Malerkotla, vide order dated 20.11.2014 (Annexure P-9).

2.4 An appeal filed by respondents No.5 and 6 before the learned Collector, Malerkotla challenging order dated 20.11.2014 (Annexure P-9) was dismissed vide order dated 16.04.2015 (Annexure P-10).

2.5 Still aggrieved, respondents No.5 and 6 preferred a revision petition before the learned Commissioner, Patiala Division, Patiala, which came to be allowed vide order dated 31.01.2017 (Annexure P-10A); whereby, the matter was remanded to the learned Assistant Collector Ist Grade, Malerkotla, to prepare a fresh *Naksha Bey*.

2.6 Being dissatisfied, the petitioners challenged the order dated 31.01.2017 (Annexure P-10A) passed by the learned Commissioner, Patiala Division, Patiala, by filing a revision petition before the learned Financial Commissioner (Appeals), Punjab. The learned Financial Commissioner Punjab, vide order dated 03.04.2017 (Annexure P-11), set aside the order dated 31.01.2017 (Annexure P-10A) and directed Assistant Collector 1st Grade to continue partition proceedings as per mode of partition and finalize the same.

2.7 It appears that respondents No.5 and 6 challenged the order dated 03.04.2017 (Annexure P-11) passed by the learned Financial Commissioner, before this Court by way of filing a writ petition bearing ***CWP-10131-2017***, which came to be allowed vide order dated 26.04.2024 (Annexure P-12); whereby, the order passed by the learned Financial Commissioner, was set aside and the matter was remanded to the learned Financial Commissioner, for deciding the matter afresh after hearing the parties.

2.8 On remand, the learned Financial Commissioner (Appeals), Punjab, vide order dated 23.08.2024 (Annexure P-13), dismissed the revision petition filed by the petitioners and upheld the order dated 31.01.2017 (Annexure P-10A) passed by the learned Commissioner, Patiala Division, Patiala.

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

3. Heard.

4. In the present case, the *Naksha Bey* was proposed, which was objected to by respondents No.5 and 6; however, the said objections were

rejected by the learned Assistant Collector Ist Grade, Malerkotla. An appeal filed by respondents No.5 and 6 against the order passed by the learned Assistant Collector Ist Grade, Malerkotla, was also dismissed; however, a revision petition filed by respondents No.5 and 6, came to be allowed by the learned Commissioner, Patiala Division, Patiala, vide order dated 31.01.2017 (Annexure P-10A), by observing as under :-

“5. I have heard both the counsels and have also gone through the orders passed by lower revenue authorities. From the perusal of Naksha ‘Arra’ passed by A.C. Ist grade, it is evident that two taks have been made for each cosharer whereas the main purpose of partition is to divide the land in a single tak to the extent possible. In this case the land can be partitioned by affording single tak for each cosharer. Furthermore, the petitioners are having 2/3 share in the land in dispute but they have been allotted front to the extent of half share which is also injustice with the petitioners. In view of the above, I am of the opinion that the Naksha ‘Arra’ passed by A.C. Ist grade is not sustainable in the eyes of law and the same is liable to be set aside. Thus the case is remanded back to A.C. Ist grade, Malerkotla with the directions that afresh Naksha ‘Arra’ be prepared by providing land in single tak for each cosharer and proportionate front be divided amongst all the cosharers as per their entitlement.”

4.1 Now, the afore-said order dated 31.01.2017 (Annexure P-10A) has been affirmed by the learned Financial Commissioner (Appeals), Punjab, vide impugned order dated 23.08.2024 (Annexure P-13).

4.2 A perusal of the order passed by the learned Commissioner, Patiala Division, Patiala would show that as per the proposed *Naksha Bey*, two taks (blocks) have been carved out for each co-sharer, whereas, as per well established principle in partition proceedings, fragmentation of land is

to be avoided; accordingly, the afore-said objection raised on behalf of respondents No.5 and 6 found favour with the learned Commissioner, Patiala Division, Patiala. It is further revealed from the learned Commissioner's order that respondents No.5 and 6 are having 2/3 share in the total joint land, however, they had not been allotted frontage on the road in proportion to their share in the joint land. On the afore-said two grounds, the learned Commissioner, Patiala Division, Patiala had remanded the matter to the learned Assistant Collector Ist Grade, Malerkotla for preparing a fresh *Naksha Bey* by providing land in single *tak* (block) for each co-sharer and for allotment of proportionate front to the co-sharers. The learned Commissioner's order has been further affirmed by the learned Financial Commissioner.

5. Learned counsel for the petitioners has failed to dislodge the observations made by the learned Commissioner, Patiala Division, Patiala.

6. Upon considering the matter in totality, I find that in the attending circumstances, the order passed by the learned Commissioner, Patiala Division, Patiala, which has been further affirmed by the learned Financial Commissioner, is justified and does not call for any interference by this Court. Accordingly, the present writ petition is dismissed.

7. All pending applications (if any) shall also stand closed.

March 19, 2025
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(HARSH BUNGER)
JUDGE

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