



**CM-4284-CWP-2025 in/and
CWP-1560-2024 (O&M)**

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

**CM-4284-CWP-2025 in/and
CWP-1560-2024 (O&M)
Date of Decision: 11.06.2025**

Rajender Singh

..... Petitioner

Versus

The State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Rajender Goel, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Pavan Malik, Advocate
for respondents No.5 to 9.

HARSH BUNGER J.

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This is an application filed for placing on record the written statement of respondent No.8.

For the reasons mentioned in the application, the same is allowed as prayed for and written statement of respondent No.8 is taken on record, subject to all just exceptions.

Application stands disposed of accordingly.



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CWP-1560-2024 (O&M)

The present petition has been filed under Articles 226/227 of the Constitution of India *inter alia* seeking issuance of a writ in the nature of Certiorari for setting aside orders dated 11.09.2023 and 19.09.2023 (Annexure P-13/T, collectively) passed by learned Collector, Nuh.

2. Briefly, petitioner- Rajender Singh along with his brothers namely Ramesh Singh and Vinod Singh and private respondents No.5 to 9 were co-sharers in the joint land measuring 227 kanals 2 marlas situated at Village Ujina, Tehsil and District Nuh. The aforesaid joint land is comprised in two khewats i.e. khewats No.1588/1563 and 1297/1358.

2.1 The private respondents herein filed two separate applications seeking partition of joint land before the revenue authorities wherein the petitioner appeared and submitted his reply. On an application submitted by the petitioner herein, both the aforesaid partition applications were clubbed/consolidated on 01.12.2022.

2.2 During the course of the aforesaid partition proceedings, the petitioner- Rajender Singh filed an application on 15.12.2022 praying that his khewat should be separated from the other co-sharers.

2.3 It transpires that the private respondents herein through their counsel suffered a statement in the aforesaid partition cases that they do not want to proceed with the partition and accordingly they sought withdrawal of their partition application on 29.05.2023.

2.4 It appears that considering the prayer of the private respondents to withdraw from the partition, the petitioner herein filed an application



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dated 01.06.2023 (Annexure P-8/T) requesting the learned Assistant Collector to continue with the partition proceedings by transposing the petitioner and his brothers as applicants seeking partition and for concluding the partition.

2.5 On the above referred applications, i.e. an application submitted by the private respondents for withdrawal from partition and the application (Annexure P-8/T) submitted by the petitioner herein for transposing them as the partition applicants and concluding the partition, the learned Assistant Collector 1st Grade, Nuh passed an order dated 01.06.2023, which reads as under:

“01.06.2023

File presented. Case was called. Counsel for the parties are presented. Counsel for the applicant had filed an application for withdrawal of the partition case on dated 29.05.2023 on which the respondents have raised objections and have stated that they wants to be transposed as applicants and wants to get their separate khewat. This case is pending since long and is on the verge of preparation of Naksha “Kh”. After hearing both the parties I have come to the conclusion that it will be legal and appropriate to continue with the proceedings of this case instead of consigning the same to records. Objections of the respondents are accepted. Now the file be presented on 08.06.2023 for amended title.

Sd/-

A.C. Ist Grade, Nuh”

2.6 Thereafter, the petitioner submitted an amended case for partition on 08.06.2023 (Annexure P-9/T).

2.7 In the partition proceedings, *Naksha ‘Kh’* was approved on



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10.07.2023 and thereafter *Naksha 'Ga'*, was also approved and thereafter Sanad Taksim dated 28.07.2023 (Annexure P-11) was issued by learned Assistant Collector 1st Grade, Nuh.

2.8 It appears that the private respondents preferred a Revision Petition (Annexure P-12) before learned Collector, Nuh, wherein learned Collector, vide order dated 11.09.2023, stayed the order passed by learned Assistant Collector and vide a subsequent order dated 19.09.2023, the further proceedings before the Courts below were stayed and the record of the case was summoned.

3. In the aforementioned circumstances, the petitioner has filed the instant writ petition before this Court for seeking setting aside of orders dated 11.09.2023 and 19.09.2023 (Annexure P-13/T, collectively).

4. Learned counsel for the petitioner submits that as per the settled law, once Sanad Taksim has been issued in the partition proceedings then thereafter, the learned Collector has no jurisdiction to hear any appeal/revision against Sanad Taksim and the only remedy available to an aggrieved party is to prefer a revision before the Commissioner or to file a writ petition before this Court.

5. On the other hand, learned counsel appearing for respondents No.5 to 9 would contend that the private respondents have preferred a revision under Section 16 (2) of the Haryana Land Revenue Act and therefore, there is no jurisdictional error in filing the revision before the learned Collector.

6. Heard.



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7. The issue which arises for consideration before this Court is as to whether the learned Collector can entertain, hear and decide the revision petition against Sanad Taksim (instrument of partition)?

8. In the present case, it is not disputed that the partition proceedings in respect of the joint khewats stand concluded with the drawing of Sanad Taksim dated 28.07.2023 (Annexure P-11).

9. Here, it would be apposite to refer to Section 122 of the Haryana Land Revenue Act, which reads as under:

“122. Delivery of possession of property allotted, on partition.- *An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall, on application made to him for the purpose by any such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section, give effect to that instrument so far as it concerns the applicant as if it were a decree for immovable property.”*

9.1 A perusal of Section 122 of the Haryana Land Revenue Act suggests that Sanad Taksim (instrument of partition) is to be given effect as if it were a decree of immovable property.

10. Now let us see the provisions contained under Section 16 of the Haryana Land Revenue Act, which reads as under:

“[16. Power to call for, examine and revise proceedings of Revenue-officers.- *(1) The Commissioner may call for the record of any case pending before, or disposed of by any*



Revenue-Officer under his control and pass such orders, as he thinks fit.

(2) The Collector may also call for the record of any case pending before, or disposed of by any Revenue-officer under his control and if he is of the opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Commissioner, whose decision shall be final:

Provided that he shall not pass an order reversing or modifying any proceeding or order of a subordinate Revenue-Officer and affecting any question of right between private persons without giving them an opportunity of being heard.]”

10.1 A perusal of Section 16 (2) of the Haryana Land Revenue Act leaves no manner of doubt that learned Collector is not entitled to exercise revisional jurisdiction and at best he can only formulate an opinion that the proceedings taken or order made in any case pending before or disposed of by any Revenue Officer under his control is required to be modified or reversed and upon forming such opinion, the learned Collector is to report the case along with his opinion thereon for the orders of the Commissioner, whose decision shall be final.

11. In my considered view, the term used in Section 16 (2) of the Haryana Land Revenue Act namely “the proceedings taken or order made” would not take within its sweep the Sanad Taksim (instrument of partition), which is like a decree for an immovable property.

12. Further, in terms of Section 16 (1) of the Haryana Land Revenue Act, the Commissioner is entitled to exercise a revisional jurisdiction in respect of any case pending before or disposed of by any



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Revenue Officer under his control and he is entitled to pass such orders as he thinks fit.

13. A perusal of orders dated 11.09.2023 and 19.09.2023 (Annexure P-13/T, collectively), which are impugned in the present writ petition would show that learned Collector has taken up the case for decision itself by wrongly assuming jurisdiction in the matter. The language used in Section 16 (2) of the Haryana Land Revenue Act does not contemplate passing of any order by the learned Collector, therefore the present writ petition is allowed and the impugned orders as well as the revision petition filed by the private respondents before the learned Collector are hereby quashed/set aside; however, leaving it open to the private respondents to avail their remedies against the partition proceedings/Sanad Taksim in accordance with law before the Forum/Court of competent jurisdiction.

14. The present petition stands disposed of accordingly.

15. All pending application(s), if any, shall also stand closed.

11.06.2025
Himani

(HARSH BUNGER)
JUDGE

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|------------------------------|---|--------|
| 1. Whether speaking/reasoned | : | Yes/No |
| 2. Whether reportable | : | Yes/No |