

137 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7085-2025 (O/M)
Date of decision : 17.03.2025

Harender Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Ms. Tejaswini, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Prayer in this writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside the order dated 04.12.2024 (Annexure P-15), passed by Commissioner, Faridabad Division, Faridabad (in short 'Divisional Commissioner').

2. Briefly, petitioner and respondents No. 2 and 3 are stated to be co-owners in possession of land comprised in khewat No. 182/1, killa No. 29//4, measuring 9 kanal – 11 marla, as per jamabandi for 2015-16. Petitioner claims that he is co-sharer to the extent of 4 kanal – 9 marla in the aforesaid khewat No. 182/1 and respondents No. 2 and 3 are co-owners to the extent of 5 kanal – 2 marla.

2.1 It is the case of petitioner that prior to purchase of land in question, vide sale deed dated 25.06.2018, there was some issue as

regards the area of killa No. 29//4, in respect of which various rapats were recorded.

2.2 It appears that the petitioner sought partition of joint land by filing an application before Assistant Collector 2nd Grade, Faridabad, wherein father of respondent No. 2 and respondent No. 3 appeared, however subsequently, they failed to appear and accordingly, they were proceeded against ex-parte on 07.12.2018. Naksha 'Ka' came to be approved on 09.04.2019 and thereafter, mode of partition came to be sanctioned on 30.10.2019, which was followed by approval of Naksha 'Kha' and Naksha 'Ga' and ultimately, the partition proceedings concluded with the drawing of sanad takseem on 19.02.2020.

2.3 It appears that respondents No. 2 and 3 preferred an appeal before the learned Collector, Faridabad (in short 'Collector'), however, the same was dismissed on account of the fact that the sanad takseem dated 19.02.2020 already stood issued and, therefore, no appeal/revision was competent against the sanad takseem.

2.4 Being dis-satisfied, respondents No. 2 and 3 preferred a revision petition before learned Divisional Commissioner, which came to be allowed, vide impugned order dated 04.12.2024 (Annexure P-15), whereby the case has been remanded to Assistant Collector 2nd Grade, Faridabad with a direction to inquire into the mutation, badar and rapat regarding ownership of the petitioner and partition be carried out after making correct entries in the revenue records.

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition before this Court, for the relief(s), as noticed hereinabove.

4. Learned counsel for petitioner submits that learned Divisional Commissioner has failed to consider the fact that respondents No. 2 and 3 have no locus standi to claim any share in the increased area of killa No. 29//4. It is further submitted that respondent No. 3 has already filed a civil suit, challenging the general power of attorney and also the sale deed vide which the petitioner has obtained his title and a further declaration has been sought regarding mutation dated 18.09.2018 to be null and void. It is next submitted that until decision of the civil court, petitioner cannot be dis-entitled to claim the land purchased by him.

5. I have heard learned counsel for petitioner and have also perused the paper-book with her able assistance.

6. Apparently, the petitioner has purchased the land in question in the year 2018, which is the subject matter of litigation before the civil court at the behest of respondent No. 3, which is stated to be pending. The partition proceedings have been commenced by the petitioner himself and the said proceedings were concluded with the drawing of sanad takseem on 19.02.2020, wherein respondents No. 2 and 3 were ex-parte, however, revision petition preferred by respondents No. 2 and 3 has been allowed and the matter has been remanded to Assistant Collector concerned for deciding the matter afresh after making correct entries in the revenue records.

7. Learned counsel for petitioner has failed to point out as to what prejudice has been caused to petitioner. Since the matter has been remanded, the petitioner would be at liberty to raise all pleas, as available to him, before Assistant Collector concerned, who would decide the case

in the light of the evidence produced on record, strictly in accordance with law.

8. The instant writ petition is accordingly dismissed with the aforesaid observations.

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

(HARSH BUNGER)
JUDGE

17.03.2025
sjks

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