

135 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7538-2025 (O/M)

Date of decision : 07.05.2025

Dilbag Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Ms. Monita Mehta, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

CM-5964-CWP-2025

This is an application filed under Section 151 CPC for placing on record document i.e. application for partition of land as Annexure P-11.

For the reasons mentioned in application, same is allowed and document i.e. application for partition of land (Annexure P-11) is taken on record subject to all just exceptions.

Application is accordingly disposed of.

CWP-7538-2025

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 19.12.2024 (Annexure P-1),

passed by Commissioner, Karnal Division, Karnal (in short 'Divisional Commissioner').

2. Briefly, respondents No. 6 to 9 filed an application seeking partition of joint land comprised in khewat No. 1628, measuring 86 kanal – 8 marla (as per jamabandi for 2019-20), situate at village Balla, District Karnal.

2.1 In the aforesaid partition proceedings, mode of partition came to be approved, vide order dated 20.09.2021 (Annexure P-9). The petitioner challenged the aforesaid order dated 20.09.2021 (Annexure P-9) by filing an appeal before learned Collector, Assandh, which was dismissed, vide order dated 16.12.2021 (Annexure P-7).

2.2 It appears that the petitioner challenged the orders dated 16.12.2021 and 20.09.2021 by filing a revision petition before learned Divisional Commissioner, which was dismissed for non-prosecution, vide order dated 03.08.2022 (Annexure P-6). Thereafter, the petitioner filed an application seeking restoration of aforesaid revision petition and during the pendency of same, the petitioner approached this Court by filing a writ petition i.e. CWP-27982-2022, which came to be disposed of, vide order dated 06.12.2022 (Annexure P-10). The relevant extract of order dated 06.12.2022 (Annexure P-10) reads as under :-

“ It is submitted that appeal against acceptance of Naksha Bey was dismissed and, thus, a revision petition has been filed. The same was dismissed for want of prosecution. An application for restoration has been filed but the same has not been considered till date. Meanwhile, the Assistant Collector has called for the Naksha Jeem.

Notion of motion to respondent Nos. 1 to 7 only.

Ms. Jasleen Kaur Sidhu, DAG, Punjab, accepts notice on behalf of respondent Nos. 1 to 3 and waives service. Mr. Gagan Sehgal, Advocate, puts in appearance and accepts notice on behalf of respondent Nos. 4 to 7 and submits that the restoration application is pending for tomorrow i.e. 07.12.2022.

Meanwhile, since there is no stay, the Assistant Collector was justified in proceeding further.

Learned counsel for the petitioner submits that a direction may be issued to the revisional authority to take up the pending restoration application on 07.12.2022.

In view of the above submission, the writ petition is disposed of with a direction to the Divisional Commissioner, Karnal to take up the pending restoration application tomorrow i.e. on 07.12.2022.

A copy of this order be given dasti under signatures of the Bench Secretary of this Court.”

2.3 It transpires that the partition proceedings came to be concluded with the drawing of sanad takseem on 08.12.2022 (Annexure P-3), which was challenged by the petitioner by filing a revision petition before learned Divisional Commissioner, however, the same was dismissed, vide impugned order dated 19.12.2024 (Annexure P-1).

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. Heard.

5. Learned counsel for petitioner submits that the petitioner has constructed his house in killa No. 224//24 and that he had sown his crops in kila No. 23, which has been given to respondent No. 11 (Balwinder).

Another objection raised by the petitioner that one Ram Swaroop and Hari Singh had got lifted 6-7 feet soil from the land in question.

5.1 So far as submission as regards construction of a house by the petitioner on killa No. 224//24 is concerned, it has not been shown as to whether said area has been allotted to other co-sharer, so as to make out a ground that the partition is contrary to the mode of partition. However, as far as allotment of killa No. 23 to one Balwinder is concerned, learned counsel for petitioner has failed to refer to any material to indicate that any claim was raised by the petitioner to the aforesaid killa No. 224//23 either in the reply to the partition application or at the time of recording statements of the parties on the mode of partition. Even copy of objections to Naksha 'Bey' (if any) has not been attached with the petition nor produced during the course of hearing of this petition. Further, the submission as regards lifting of soil is also not substantiated by any evidence as such.

6. Considering the totality of circumstances, I am of the considered view that learned counsel for petitioner has failed to substantiate his submissions, as noticed above and in the absence of same, the pleas raised by petitioner are liable to be rejected. Even otherwise, it is not the case of the petitioner that he has not been allotted land as per his entitlement. Further, it has not been shown by learned counsel for petitioner that the petitioner has suffered any prejudice with the manner in which final partition has been carried out.

7. Resultantly, the instant civil writ petition fails and the same is accordingly dismissed.

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

(HARSH BUNGER)
JUDGE

07.05.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No