

130 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10718-2025 (O/M)
Date of decision : 21.04.2025

Jai Prakash and others

..... Petitioners

Versus

Commissioner, Rohtak Division, Rohtak and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Ramesh Hooda, Advocate
for the petitioners.

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 15.07.2024 (Annexure P-12), passed by Commissioner, Rohtak Division, Rohak (in short 'Divisional Commissioner').

2. Briefly, the petitioners sought partition of joint land comprised in khewat No. 19//18, situated at village Kherka Gujjar, Tehsil Badli, District Jhajjar, as per jamabandi for 2015-16.

2.1 It is stated that mode of partition came to be approved on 13.07.2022 and Naksha 'Bey' came to be sanctioned on 01.02.2023, which was followed by Naksha 'Zeem' and ultimately, partition proceedings concluded with the drawing of sanad takseem dated 12.04.2023 (Annexure P-3).

2.2 It transpires that respondents No. 3 to 7 preferred a revision petition before learned Divisional Commissioner, which came to be allowed, vide impugned order dated 15.07.2024 (Annexure P-12) by observing that before carrying out the final partition, Assistant Collector concerned did not carry out spot inspection and that the partition has been effected without considering the value and nature of the land.

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

4. Heard.

5. In this case, petitioners sought partition of joint land, wherein following mode of partition (Annexure P-4) came to be approved :-

“1. That the application for partition is related to Khewat No. 19//18 Khatouni no. 19, 20, 21 Kitte 24 area 135 kanal 15 marla of Jamabandi for the year 2015-16 and land of which mutations sanctioned thereafter situated in village Khedka Gujjar Tehsil Badli, District Jhajjar. One Khewat of applicant no. 1 and the second khewat of applicant no. 2 and the third khewat of applicant no. 3 to 6 and fourth khewat of other respondents be made.

2. That the partition will be made while distributing the possession and as per rules of consolidation.

3. That if any area is situated either on road or adjoining to Abadi then all the co-sharers will get the land as per their shares.

4. That if any landowner has removed the sand for brick kiln or other purpose then that number be allotted to that co-sharer. If any party has tubewell or house then that area will be allotted to him. If there is any joint old well then that

will be given to any party with the consent of all the parties otherwise, it will be kept as joint.

5. That each part will be given two karam wide passage and one karam wide watercourse for which the area will be deducted from all co-sharers according to their share.

6. If any co-sharer has obtained loan on any specific number then that loan will be considered of his share.

7. If all the area is not possible for partition then the deficiency upto 0 kanal 2 marla will be ignored.

8. That Rs. 2000/- has been fixed as expenses for Halqa Girdawar for survey. This will be incurred by all the applicants.”

6. Evidently, land under partition is comprised in two parcels of land. When Aks Shajra/Site Plan (Annexure P-7) attached to the sanctioned Naksha 'Bey' (which reflects the position as per approved proposal of partition) is considered in the light of the provisions contained in the sanctioned mode of partition (Annexure P-4), it leaves no manner of doubt that the partition has not been carried out as per sanctioned mode of partition, especially Clause 2 and 3 thereof. The area, which has been kept joint for respondents No. 3 to 7, the same has been carved out in almost five fragments with no contiguity. Therefore, the rules of consolidation have not been followed. Further, the petitioners have been granted frontage on the road (in one parcel of land) to the extent of 50 karams (9 karams shown in brown colour + 20 karams in blue colour + 21 karam in blue colour). On the other hand, respondents No. 3 to 7 have been allocated frontage on the road only to the extent of 39 karams. Therefore, there is an apparent departure from Clause 3 of sanctioned mode of partition.

7. Since the final partition is contrary to sanctioned mode of partition, accordingly, I find no fault with the order passed by learned Divisional Commissioner, whereby he has remanded the matter to Assistant Collector concerned for carrying out the partition afresh.

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

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

(HARSH BUNGER)
JUDGE

21.04.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No