

2025:PHHC:073133



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

**CWP-10567-2025 (O&M)
Date of Decision: 27.05.2025**

Sunil Kumar and others

..... Petitioners

Versus

Commissioner, Gurugram Division and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Atul Yadav, Advocate
for the petitioners.

Ms. Upasana Dhawan, AAG, Haryana.

HARSH BUNGER J. (ORAL)

Petition herein is, *inter alia*, for issuance of a writ in the nature of Certiorari for setting aside orders dated 25.10.2023 (Annexure P-4), 29.11.2023 (Annexure P-5) and *Sanad Takseem* dated 29.11.2023 (Annexure P-6) passed/issued by the learned Assistant Collector, First Grade, Pataudi, District Gurugram.

1.1 A further prayer has been made for setting aside order dated 03.01.2024 (Annexure P-7) passed by the learned Collector, Pataudi, District Gurugram and order dated 20.02.2025 (Annexure P-8) passed by the learned Divisional Commissioner, Gurugram.

2. Briefly, respondents No.4 to 6 sought partition of the joint land comprised in Khewat Nos.353 and 451, measuring 148 Kanals 9 Marlas,

situated in Village Bas Padamka. In the said proceedings, the Mode of Partition (Annexure P-3) was framed, on the basis of which *Naksha Bey* was prepared by the field staff and the same was approved by the learned Assistant Collector, Ist Grade, Pataudi, vide order dated 25.10.2023 (Annexure P-4); and thereafter, the *Naksha Jeem* was called. Subsequently, vide order dated 29.11.2023 (Annexure P-5), the learned Assistant Collector approved the *Naksha Jeem* and the partition proceedings were culminated with the drawing of *Sanad Takseem* dated 29.11.2023 (Annexure P-6).

2.1 It appears that although *Sanad Takseem* was issued on 29.11.2023, petitioners No.5 and 6 challenged the order dated 25.10.2023 (Annexure P-4), whereby their objections to *Naksha Bey* had been rejected and the same was approved. The said appeal was dismissed by the learned Collector, Pataudi, vide order dated 03.01.2024 (Annexure P-7), primarily on the ground that after the issuance of *Sanad Takseem*, the Court had no jurisdiction to entertain the appeal. Thereafter, petitioners No.5 and 6, along with Sh. Devi Dayal (predecessor-in-interest of petitioners No.1 to 4), preferred a revision petition before the learned Divisional Commissioner, Gurugram, challenging the partition orders as well as the *Sanad Takseem*; however, the said revision petition was also dismissed vide order dated 20.02.2025 (Annexure P-8).

3. In the aforementioned circumstances, the present writ petition has been filed before this Court, seeking relief(s) as noticed hereinabove.

4. Learned counsel for the petitioners submits that the learned Assistant Collector, Ist Grade, Pataudi, has erred in law and facts by conducting the partition proceedings in a hasty manner. It is submitted that the petitioners never filed any objections to the *Naksha Bey*; however, in order dated 25.10.2023 (Annexure P-4), whereby *Naksha Bey* was approved,

it has been wrongly recorded that their objections were rejected.

4.1 Learned counsel for the petitioners contends that the partition has been effected contrary to the sanctioned Mode of Partition, particularly Clause 9 thereof, which specifically provided that the area from which the gas pipeline is passing would be given to all the co-sharers in accordance with their respective shares; whereas the entire land adjoining the gas pipeline has been given to the petitioners.

4.2 Learned counsel for the petitioners further submits that while carrying out the final partition, the land has been divided into several blocks and a lot of area has been wasted under passages. Further, it is pointed out that Sh. Devi Dayal (predecessor-in-interest of petitioners No.1 to 4) had installed a tubewell in Khasra No.23/2, but in the final partition, the said khasra has been wrongly allotted to Sh. Ram Chander.

4.3 With the aforesaid submissions, learned counsel for the petitioners has prayed for setting aside the impugned partition proceedings/orders.

5. Heard.

6. As regards the submission of learned counsel for the petitioners that the partition has been carried out in violation of the sanctioned Mode of Partition, particularly Clause 9 thereof, which provided that the area through which the gas pipeline passes was to be given to all the co-sharers, it is observed that when the Daily Diary Report dated 12.05.2018 (Annexure P-2), containing the khasra numbers from which the gas pipeline has been laid, is considered in the light of *Naksha Jeem*; it is revealed that the khasra numbers from which gas pipeline has been laid, those khasra numbers have been distributed amongst all the co-sharers. Hence, it cannot be said that the said area has been allotted only to the petitioners.

Accordingly, this contention of learned counsel for the petitioners is rejected.

6.1 As regards the other submission of learned counsel for the petitioners that the learned Assistant Collector, Ist Grade, Pataudi, has wrongly recorded in order dated 25.10.2023 (Annexure P-4) that the objections to *Naksha Bey* were rejected, although no objections had been filed by the petitioners; suffice it to say that if no objections were raised to the *Naksha Bey*, then the petitioners cannot be permitted to raise any grievance at this stage. Rather, their non-filing of objections would show that they had no objection to the manner in which the partition was proposed in the *Naksha Bey*. Therefore, this contention of learned counsel for the petitioners also stands rejected.

6.2 As regards the plea of learned counsel for the petitioners that Sh. Devi Dayal (predecessor-in-interest of petitioners No.1 to 4) had installed a tubewell in Khasra No.23/2, which has been allotted to Sh. Ram Chander, it is observed that Sh. Ram Chander himself is one of the petitioners who has joined the present proceedings along with petitioners No.1 to 4 (being the successors-in-interest of Sh. Devi Dayal). Further, Sh. Devi Dayal was the real brother of petitioners No.5 and 6. In my considered view, the said khasra has fallen to the share of the petitioners only, and thus no prejudice is caused to them. Accordingly, this submission of learned counsel for the petitioners is also rejected.

6.3 As regards the contention of learned counsel for the petitioners that a lot of area has been wasted in providing passages, it is observed that while conducting partition, various adjustments are always required to be made considering various factors like number of co-sharers in the joint land, shape of land parcels under partition, location of land (whether abutting the

road/passage or near to village *abadi* or town etc.), nature/value of land, source of irrigation, existing possession of the parties, provisioning of passage(s)/water-course(s), construction of hutments/houses etc. There may be other factors as well which may call for carving out of blocks of respective co-sharers, in a particular manner. If the revenue authorities, while carrying out the partition, have deemed it appropriate to provide passages, the same would not call for any interference by this Court, especially when it is not shown as to what prejudice has been caused to the petitioners by the provisioning of the passages in the land under partition. It is not even the case of petitioners that they have been allotted land less than their entitlement. Accordingly, this contention of learned counsel for the petitioners also stands rejected.

7. Keeping in view the above discussion, I find no merit in this writ petition. Resultantly, the instant writ petition fails and the same is, accordingly, dismissed.

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

27.05.2025

Apurva

(HARSH BUNGER)

JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No