

2025:PHHC:057295



2025:PHHC:057298



**CWP-12038-2025 (O&M) and
CWP-12072-2025 (O&M)**

-1-

159 & 163 (2 cases)

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

Date of Decision: 01.05.2025

**(I) CWP-12038-2025 (O&M)
(II) CWP-12072-2025 (O&M)**

Guddi Devi

..... Petitioner(s)

Versus

Commissioner, Hisar Division, Hisar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Pankaj Gautam, Advocate
for the petitioner(s).

Ms. Upasana Dhawan, AAG, Haryana.

HARSH BUNGER J. (ORAL)

This order shall dispose of two writ petitions bearing CWP No.12038 of 2025 and CWP-12072 of 2025 as they both involve common question of law and facts, however, for sake of reference, the facts are being taken from CWP-12038-2025.

1.1 Prayer in the present writ petitions is for issuance of a writ in the nature of Certiorari for setting aside order dated 04.07.2024 (Annexure



**CWP-12038-2025 (O&M) and
CWP-12072-2025 (O&M)**

-2-

P-15 in CWP-12038-2025 and Annexure P-16 in CWP-12072-2025) passed by learned Commissioner, Hisar Division, Hisar.

1.2 A further prayer has been made for quashing of order dated 26.10.2020 (Annexure P-8 in CWP-12038-2025 and Annexure P-9 in CWP-12072-2025) passed by learned Assistant Collector IInd Grade, Jind.

2. Briefly, respondent No.4- Rajender Kumar filed two applications in respect of two khewats bearing khewat No.125 measuring 30 kanals 05 marlas and khewat No.127 measuring 121 kanals 02 marlas (as per *jamabandi* for the year 2014-15) situated at Village Ghimana, Tehsil and District Jind.

2.1 In the aforesaid partition proceedings, mode of partition (Annexure P-3) came to be prepared and on that basis *Naksha 'bey'* was called from the field staff.

2.2 Upon receipt of *Naksha 'bey'* on the file, objections from the respective parties were called thereto. The petitioner(s) is stated to have submitted her objections (Annexure P-6).

2.3 The learned Assistant Collector vide order dated 26.10.2020 (Annexure P-8) rejected the objections submitted by the petitioner(s) and approved *Naksha 'bey'*.

2.4 Feeling aggrieved against order dated 26.10.2020 (Annexure P-8), the petitioner(s) preferred an appeal before the learned Collector. It transpires that during the pendency of the appeal before the learned Collector, the partition proceedings were concluded by the learned Assistant Collector vide order dated 09.12.2020 (Annexure P-13) and Sanad Taskim



**CWP-12038-2025 (O&M) and
CWP-12072-2025 (O&M)**

-3-

(Annexure P-12) was prepared.

2.5 On the other hand, the learned Collector while considering the appeal filed by the petitioner(s) against order dated 26.10.2020 (Annexure P-8), allowed the same and remanded the matter to the learned Assistant Collector vide order dated 21.09.2021 (Annexure P-14).

2.6 The private respondents herein challenged order dated 21.09.2021 (Annexure P-14) by filing an appeal before the learned Commissioner, Hisar Division, Hisar, which came to be allowed vide order dated 04.07.2024 (Annexure P-15) whereby, order dated 21.09.2021 (Annexure P-14) passed by the learned Collector, Jind was set aside and order dated 26.10.2020 (Annexure P-8) passed by the learned Assistant Collector IInd Grade, Jind was maintained with the further observation that the partition proceedings have been carried out correctly as per the rules and there is no irregularity therein.

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

4. Heard.

5. In the present partition proceedings, the following mode of partition came to be prepared:-

“Mode of partition:

1. *Total area of land under partition is total land 121 Kanal 02 Marla of village Ghimana.*
2. *Four portions will be carved out.*
First portion will be of applicant no.1.



**CWP-12038-2025 (O&M) and
CWP-12072-2025 (O&M)**

-4-

Second portion will be of respondent no.1.

Third portion will be of respondent no.2.

Fourth portion will be of respondent no.3.

3. *Partition will be affected keeping in view the share, kind and value of land in joint holding under consideration in present application.*

4. *Gair Mumkin area of land in the application will be excluded from partition.*

5. *Excess or remission up to 0-2 marla land will be not considered while reckoning the share of portion during partition.*

6. *Trees will go with portion of land carved.*

7. *Houses (Dhani). Tube wells etc. will be allotted to the person who constructed them.*

8. *The owner who has raised bank loan/sureties etc. will carry these entries against his/their share after partition.*

9. *Every portion will be provided with path/passage and canal water connectivity.*

10. *Local commission fee is adjudged @ of Rs.3500/- that will be paid by applicant.”*

6. On the basis of the aforesaid mode of partition, Naksha ‘bey’ was called from the field staff. Upon receipt of Naksha ‘bey’, the petitioner(s) herein preferred her objections (Annexure P-6), the relevant extract of which reads as under:-

“1. That Naksha-Be has not been prepared as per the mode of partition. That the plaintiff Guddi has been in possession of Land comprised in Murabba No. 33, Killa No. 9/2, 11, 12, 13 for the last 20 years. A Room and Tubewell are built in Killa No. 11. The possession of respondent Guddi Devi has been broken in this Naksha-Be, which is wrong. That orders were



**CWP-12038-2025 (O&M) and
CWP-12072-2025 (O&M)**

-5-

given to make partition as per the mode of partition by retaining the possession, which orders have been violated.

2. That the respondent Guddi has been given the land comprised in Murabba No. 33, Killa No. 18/1, 19/1, which is wrong. This has been given wrongly to Guddi Devi by breaking the possession of land under the possession of respondent Krishan, and Guddi Devi is in possession of Killa No. 11/2. Paddy Crop is grown on the spot. The spot of the land should be inspected and the existing Naksha-Be should be set-aside and a revised Naksha-Be should be called.”

7. Apart from the aforesaid objections, another objection was raised as regards non-provisioning of watercourse in the land under partition. All the aforesaid objections were rejected by the learned Assistant Collector vide order dated 26.10.2020 (Annexure P-8).

8. Feeling aggrieved against the aforesaid order dated 26.10.2020 (Annexure P-8), the petitioner(s) preferred an appeal before the learned Collector, wherein also the primary grievance raised was that Clause 9 of the mode of partition has not been complied with while preparing *Naksha ‘bey’* and that the objection regarding non-provisioning of watercourse in the land under partition has been wrongly rejected.

9. Although while the appeal was pending before the learned Collector, the partition proceedings came to be concluded with the drawing of Sanad Taksim (Annexure P-12), even then the learned Collector proceeded to decide the appeal filed by the petitioner(s) against order dated 26.10.2020 (Annexure P-8) and allowed the same vide its order dated 21.09.2021 (Annexure P-14); whereby the matter was remanded to the



**CWP-12038-2025 (O&M) and
CWP-12072-2025 (O&M)**

-6-

Assistant Collector.

10. Thereafter, on an appeal being filed by the private respondents, learned Commissioner, Hisar Division, Hisar vide impugned order dated 04.07.2024 (Annexure P-15) has set aside the order dated 21.09.2021 (Annexure P-14) and maintained order dated 26.10.2020 (Annexure P-8) and also the partition proceedings/Sanad Taksim, by observing as under:-

“7- In the partition case, Naksha "Zim" was approved by the order dated 26-10-2020 of Assistant Collector, Second Grade, Jind and the Sanad Taksim has also been issued by order dated 09-12-2020. Before the issuance of the Sanad Taksim, an appeal against Naksha "Zim" was filed by the respondent Guddi in the Court of Collector, Jind on 24-11-2020, in which her main basis was that there are 2 Khewats in the partition case: Khewat No. 125 and Khewat No. 127 and the respondent wants to get the partition of both the Khewats together.

8- The Collector, Jind accepted the appeal of the respondent Guddi Devi and by his order dated 21-09-2021 the case was remanded with this direction that "the present case should be re-heard, spot be inspected and a fresh decision be taken on the basis of merits keeping in view the objections of the appellant (present respondent)."

9- From the observation of the record, it was found that the shareholders in both the Khewats are not equal, hence it would not be fair to partition both the Khewats together. Thus, the order dated 21-09-2021 passed by the Sub-Divisional Officer (C)-cum-Collector, Jind is erroneous. The proceedings of the partition case by the Assistant Collector Second Grade, Jind have been done correctly as per the rules. There does not appear to be any irregularity in the orders passed by the



**CWP-12038-2025 (O&M) and
CWP-12072-2025 (O&M)**

-7-

Assistant Collector Second Grade, Jind.

10- Therefore, in view of the above-mentioned circumstances, the appeal of the appellants is found to be valid and the appeal is accepted and the order dated 21-09-2021 passed by the Collector, Jind is quashed and the order dated 26-10-2020 passed by the Assistant Collector, Second Grade, Jind is upheld. The records of the subordinate courts be sent back along with a certified copy of this order. The file be consigned to the record room after due compliance.”

11. Learned counsel for the petitioner(s) has failed to point out as to how the observations made by the learned Commissioner are wrong/incorrect. Further, the petitioner(s) has been able to show as to what prejudice has been caused to her by the manner in which the final partition has been carried out. It is not the case of the petitioner(s) that she has been allocated less land than her entitlement or that she has been allotted any inferior land as compared to the other co-sharers.

12. The only grievance sought to be raised is that there is a violation of Clause 9 of mode of partition in preparing *Naksha 'bey'*, which provided for provisioning of watercourse to the land under partition. Another submission has been raised that the partition should have been carried out by clubbing both the khewats.

13. A perusal of order dated 04.07.2024 (Annexure P-15) would show the plea of the petitioner that partition should have been done by clubbing the khewats has been duly considered by learned Commissioner and rightly rejected by observing that since co-owners in both the khewats are different therefore it would not be fair to partition both the khewats



**CWP-12038-2025 (O&M) and
CWP-12072-2025 (O&M)**

-8-

together.

13.1 As regards plea of the petitioner that no watercourse has been provided in the land under partition; it is observed that a similar objection was raised before learned Assistant Collector; who rejected the same upon considering the statement of concerned Kanungo that there is no canal water available for 30-32 years, therefore there is no requirement of watercourse (khal). Learned counsel for the petitioner(s) has not referred to any material to show that the land under partition was being irrigated from canal water. No *warabandi* of Canal Department has been shown in this regard. In the absence of any material to controvert the observations made by learned Assistant Collector that there is no canal water for 30-32 years, the plea of petitioner(s) regarding non-provisioning of watercourse, is rejected.

14. No other point has been urged.

15. Considering the totality of circumstances, I find no merit in the instant writ petitions and the same are accordingly dismissed.

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

17. Photocopy of this order be placed on the file of above mentioned connected matter.

01.05.2025

Himani

**(HARSH BUNGER)
JUDGE**

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