



**289 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CR No.4495 of 2024

Date of decision : 09.01.2025

Sukhdev Singh and others

....Petitioners

Versus

Resham Singh and others

....Respondents

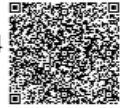
CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Brijeshwar Singh Bhalla, Advocate
for the petitioners.

PANKAJ JAIN, J. (ORAL)

Defendants are in revision aggrieved of orders passed by Courts below whereby they have been restrained from interfering in the lawful and peaceful possession of the plaintiffs and from ejecting/ dispossessing the plaintiffs from the suit land forcibly, illegally except in due course of law till the decision of the suit allowing their application filed under Order XXXIX Rule 1 & 2 CPC.

2. Plaintiffs filed suit claiming that the land in dispute stands partitioned by Revenue Court vide order dated 12.07.2022. Sanad Taqseem stands issued. Appeal preferred by the defendants against issuance of Sanad Taqseem stands dismissed. Revision petition has been filed by the defendants before Financial Commissioner but there



is no interim granted in their favour. On issuance of Sanad Taqseem plaintiffs have been put in their share of the suit land and thus they are entitled for possession.

3. Suit was contested by the defendants accusing plaintiffs of having concealed material facts. Defendants claimed family partition dated 17.05.2016 and further claimed that they have already filed revision before Financial Commissioner which is pending.

4. Trial Court allowed the application filed by the plaintiffs seeking interim injunction holding that on issuance of Sanad Taqseem jointness of estate has come to an end. As per Sanad Taqseem dated 12.07.2022 suit land has been allotted to the plaintiffs. After sanction of Sanad Taqseem the plaintiffs are in exclusive possession of the suit land and are thus entitled to protect their possession.

5. Dissatisfied, defendants, filed appeal.

6. Appellate Court dismissed the appeal affirming the order passed by the Trial Court.

5. Ld. Counsel for the petitioners while assailing the impugned order passed by the Appellate Court relies upon order dated 10.04.2024 passed by the Financial Commissioner (Appeals), Punjab whereby Sanad Taqseem dated 16.09.2022 passed by Revenue Court has been ordered to be set aside accepting the revision filed by the

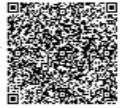


defendants. The matter stands remanded back to the Tehsildar-cum-Assistant Collector 1st Grade to decide the application of partition afresh after giving proper opportunities to both the parties.

6. I have heard counsel for the parties and have carefully gone through records of the case.

7. It is matter of record that Sanad Taqseem was issued and the suit property has come to the share of the plaintiffs. The interim injunction granted in favour of the plaintiffs is to the effect that the defendants/petitioners are restrained from interfering in lawful and peaceful possession of the plaintiffs. Defendants have been further restrained from ejecting or dispossessing the plaintiffs from the suit land forcibly, illegally except in due course of law. In terms of law laid down by the Supreme Court in the case of **Jhabbar Singh vs. Jagtar Singh, (2023)14 SCC 199**, the joint status of the parties stands severed prior to the date Sanad Taqseem is issued. Supreme Court observed as under:

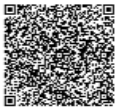
“30. If the said analogy is applied to the provisions contained in the Punjab Land Revenue Act pertaining to the Partition, we are of the opinion that when a decision is taken by the Revenue Officer under Section 118 on the question as to the property to be divided and the mode of partition, the rights and status of the parties stand decided and the partition is deemed to have completed. At this stage, such decision is required to be treated as the “decree”. The consequential



action of preparing the instrument of partition as contemplated in Section 121 of the Land Revenue Act would be only ministerial or administrative act to be carried out to completely dispose of the partition case instituted before the Revenue Officer. Hence, once the decision on the property to be divided and on the mode of partition is taken by the Revenue Officer under Section 118, the joint status of the parties would stand severed on the date of such decision, subject to the decision in appeal if any preferred by the party. The consequential action of drawing an instrument of partition would follow thereafter. Hence, merely because the instrument of partition was not drawn, it could not be said that the partition was not completed or that the joint status of the parties was not severed.”

On the day, the petitioners filed suit accompanied by application under Order XXXIX Rule 1 & 2 CPC, Sanad Taqseem had already been issued after property was ordered to be partitioned.

8. Keeping in view the nature of relief granted to the respondents/plaintiffs, this Court does not find any reason to interfere in the impugned orders passed by the Courts below as on the day the orders were passed, Sanad Taqseem was in existence, while dismissing the instant revision petition, it is clarified that the petitioners will be at liberty to move an appropriate application seeking modification of the order passed by the Trial Court in the event of there being any change/alteration in the order of partition that would be passed by the



Revenue Courts pursuant to remand order dated 10.04.2024 passed by the Financial Commissioner (Appeals), Punjab, (Annexure P-6).

9. Ordered accordingly.

January 09, 2025

(Pankaj Jain)
Judge

Dpr

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No