

CWP-32300-2024 (O/M)

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2025:PHHC:005460

CWP-32309-2024 (O/M)

2025:PHHC:005462

136, 138 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 15.01.2025

CWP-32300-2024 (O/M)

2025:PHHC:005460

Hari Ram

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CWP-32309-2024 (O/M)

2025:PHHC:005462

Hari Ram

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Gian Parkash Saini, Advocate
for the petitioner (in both cases).

Mr. Navneet Singh, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. This order shall dispose of aforementioned two writ petitions (CWP-32300-2024, CWP-32309-2024) as similar issues of law and facts are involved therein. For brevity, the facts have been taken from CWP-32300-2024.

2. Petitioner (Hari Ram) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for quashing the order dated 21.03.2024 (Annexure P-1), passed by learned Financial Commissioner (Appeals), Punjab (in short 'Financial Commissioner').

3. Briefly, one Shri Ram Singh (since deceased) alongwith respondent No. 3 (Bhagwan Singh), both sons of Sadhu Singh, filed an

application, seeking partition of land comprised in Khewat/Khata No. 352/337, Khasra No. 809 (3-0), 810 (1-5), as per Jamabandi for the year 2015-16, situated in village Ghanaur, Tehsil Rajpura, District Patiala. In the said partition proceedings, Naksha 'Urri' was approved and thereafter, mode of partition came to be sanctioned on 04.10.2018 and thereafter, Naksha 'Arra' was called from the field staff.

3.1 Upon receipt of Naksha 'Arra' on the file, the objections thereto were called from the parties, whereupon Ram Singh submitted objections, inter alia, stating that the present petitioner (Hari Ram) has been wrongly given valuable front on both roads i.e. 54 karams front on Lachhru Khurd road and 17 karams on Mehdudan village road, whereas Ram Singh and Bhagwan Singh have been given 11 karams each only on the road going from Ghanaur to village Mehdudan.

3.2 It appears that the said objection raised by Ram Singh was rejected by Assistant Collector 1st Grade, Ghanaur, and Naksha 'Arra' was approved, vide order dated 13.12.2018 (Annexure P-4). Thereafter, Naksha 'Erri' was also approved, vide order dated 15.01.2019 (Annexure P-5).

3.3 It appears that Ram Singh and Bhagwan Singh preferred an appeal before learned Collector, Rajpura, however, the same was dismissed, vide order dated 03.02.2020 (Annexure P-8). Further revision petition (RR-15/2020), filed by Ram Singh and Bhagwan Singh before learned Commissioner, Patiala Division, Patiala, (in short 'Divisional Commissioner') was also dismissed, vide order dated 11.08.2020 (Annexure P-9).

3.4 It transpires that thereafter, Ram Singh and Bhagwan Singh preferred a revision petition (ROR-585-2020) before the learned Financial Commissioner, however, during the pendency of the aforesaid revision petition, the Assistant Collector 1st Grade, Ghanaur issued sanad takseem, vide order dated 04.11.2020 (Annexure P-13). Accordingly, Ram Singh and Bhagwan Singh preferred another revision petition (ROR-113-2021), wherein the partition proceedings alongwith sanad takseem was challenged before the learned Financial Commissioner.

3.5 Both the aforesaid revision petitions came to be allowed by learned Financial Commissioner, vide common order dated 21.03.2024 (Annexure P-1), whereby the order dated 13.12.2018 (Annexure P-4) sanctioning the Naksha 'Arra', order dated 15.01.2019 (Annexure P-5) sanctioning the Naksha 'Erri' alongwith sanad takseem dated 04.11.2020 (Annexure P-13) were set aside and the matter has been remanded to Assistant Collector 1st Grade, Ghanaur, for passing fresh order in consonance with the approved mode of partition.

4. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition before this Court for the relief(s), as notice hereinabove.

5. Heard.

6. In the present case, the learned Financial Commissioner has set aside Naksha 'Arra', Naksha 'Erri' as well as sanad takseem, vide order dated 21.03.2024 (Annexure P-1) by observing as under :-

“6. I have heard and considered the submissions advanced by Ld. Counsel for the petitioners as well as respondents and perused the documents/record available on file. In these cases, ROR 585 of 2020 and ROR No. 113

of 2021, both petitioners and respondents have not challenged the mode of partition and the same has therefore attained finality. Meaning thereby, the partition was to be carried out in accordance with the accepted and approved mode of partition. The main allegation of the petitioners is that road front of the suit land has not been equally distributed between the co-sharers. The petitioners had also raised this contention at the time of approval of naksha 'arra' by AC 1st Grade (Naib Tehsildar), Ghanaur vide order dated 13.12.2018. Therefore, keeping in view the facts and circumstances of the present case, I am of the view that the AC 1st Grade (Naib Tehsildar), Ghanaur has wrongly passed the impugned order dated 13.12.2018 without even considering of the approved mode of partition and not allotting road front to all co-sharers in the ratio of their shares in the Partitioned land. Thus, principle of natural justice has been violated in the present case and counsel for the petitioners in both the revision petitions has duly pointed out few other illegality and perversity in the impugned orders passed by AC 1st Grade (Naib Tehsildar), Ghanaur."

6.1 A perusal of the above extracted findings returned by learned Financial Commissioner would show that the partition proceedings have been set aside primarily on the ground that the same have not been carried out in accordance with approved/sanctioned mode of partition inasmuch as that the co-sharers have not been allotted land/frontage on the road in accordance with their share in the joint land.

7. In this regard, I have perused the copy of site plan (Annexure P-16), which has been placed on record, vide civil miscellaneous application i.e. CM-296-2025 in CWP-32300-2024. A perusal of the said site plan would clearly indicate that the land allocated to the present petitioner is shown in yellow colour, whereas the land

allocated to Ram Singh is shown in blue colour and the land allocated to Bhagwan Singh is shown in green colour.

8. Apparently, Hari Ram (petitioner) has been allocated the entire land having frontage on both the roads, whereas Ram Singh and Bhagwan Singh have been allocated land with frontage on only one road and that too, to the extent of 11 karams each. As per the mode of partition (Annexure P-3), the partition was to be carried out by dividing the land amongst the co-sharers as per its value i.e. best land amongst the best land and worst land amongst worst land be allocated to the respective co-sharers in accordance with their share in the joint land. Apparently, Ram Singh and Bhagwan Singh have not been allocated land having frontage on the road in accordance with their share in the joint land.

9. In this view of the matter, since the land has been partitioned in the manner which is not in consonance with the mode of partition, I find no reason to interfere in the impugned order dated 21.03.2024 (Annexure P-1), passed by learned Financial Commissioner. Accordingly, both the writ petitions are dismissed.

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

11. Photocopy of this order be placed on connected case file.

(HARSH BUNGER)
JUDGE

15.01.2025
sjks

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No