

131 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-35347-2025 (O/M)
Date of decision : 22.12.2025

Des Raj and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Rajeev Anand, Senior Advocate with
Mr. Chanderhas Yadav, Advocate
for the petitioners.

Ms. Upasana Dhawan, AAG Haryana.

Mr. Aashish Chopra, Senior Advocate with
Ms. Rupa Pathania, Mr. Abhinav Kaushik,
Mr. Ashish Kundu, Advocates
for caveator-respondent No. 5.

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HARSH BUNGER, J. (ORAL)

1. Prayer in this civil 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 order dated 14.08.2025 (Annexure P-17), passed by Assistant Collector 2nd Grade, Manesar (in short 'Assistant Collector'), whereby objections submitted by petitioners to Naksha 'Bey', prepared during partition proceedings, were dismissed.

1.1 A further prayer has been made for setting aside order dated 08.09.2025 (Annexure P-18), passed by learned Collector, Manesar (in short 'Collector') as well as order dated 14.11.2025 (Annexure P-23), passed by learned Commissioner, Gurugram Division, Gurugram (in

short 'Divisional Commissioner'), whereby an appeal and revision, respectively, filed by petitioners, were dismissed.

2. Briefly, in the partition proceedings initiated in respect of land parcel, measuring 33 Kanal - 8 Marla, situated at village Badha, Tehsil Manesar, District Gurugram, a sanad takseem (instrument of partition) came to be issued on 28.05.2018 (Annexure P-1); wherein a separate joint khewat, comprising of 16 Kanal - 8 Marla, was carved out, wherein petitioners and other co-sharers were shown as joint owners.

2.1 Thereafter, vide an application dated 09.02.2023 (Annexure P-2), petitioners initiated partition proceedings in respect of aforesaid 16 Kanal – 8 Marla land, comprised in khewat No. 368/335 min (as per jamabandi for the year 2017-18).

2.2 It appears that on 10.02.2023, respondent No. 5 (M/s S.S. Group Private Limited) purchased some area out of above referred joint land, which was duly mutated in revenue records, vide mutation No. 3563 dated 01.03.2023.

2.3 It transpires that respondent No. 5 (M/s S.S. Group Private Limited) participated in partition proceedings, wherein mode of partition dated 08.05.2025 (Annexure P-13) was approved and Naksha 'Bey' was called from field staff.

2.4 Upon receipt of Naksha 'Bey'; objections thereto were called from respective parties, whereupon petitioners submitted their objections (Annexure P-16) to Naksha 'Bey', which came to be rejected by concerned Assistant Collector, vide order dated 14.08.2025 (Annexure P-17) and consequently, Naksha 'Bey' was approved.

2.5 Feeling aggrieved against order dated 14.08.2025 (Annexure P-17), petitioners preferred an appeal before learned Collector; however, same was dismissed, vide order dated 08.09.2025 (Annexure P-18).

2.6 Still dis-satisfied, petitioners preferred a revision before learned Divisional Commissioner, which has also been dismissed, vide order dated 14.11.2025 (Annexure P-23).

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

4. Heard.

5. This writ petition has been filed; challenging the orders passed by revenue authorities, whereby objections raised by petitioners to proposed Naksha 'Bey' were rejected and even an appeal and a revision, filed by petitioners, have been dismissed.

5.1 The primary objections raised by petitioners to Naksha 'Bey' can be summarised as under :-

- (i) petitioners claimed that they are in possession of land, comprised in Rect. No. 23, Killa No. 6/1 and 7/1/2/1 by installing wire fencing; wherein three rooms have been constructed in Killa No. 6/1 alongwith a tubewell and an electricity connection and in Killa No. 7/1/2/1, petitioners have installed underground pipeline for irrigation purposes. It is claimed that while preparing Naksha 'Bey', the possession of petitioners over the aforesaid area has been

ignored, therefore, aforesaid khasra numbers be allotted to petitioners ;

(ii) that in Naksha 'Bey', petitioners have been allotted area in Rect. No. 23, Killa No. 10/2, which does not have any passage to it ; and

(iii) that the land comprised in Killa No. 23//10/2 is land locked by other area owned by respondent No. 5 (M/s S.S. Group Private Limited) and its sister concern companies; therefore, it is difficult for petitioners to approach said area.

5.2 In order to appreciate the objections raised by petitioners to Naksha 'Bey', it would be appropriate to refer to the mode of partition dated 08.05.2025 (Annexure P-13), the relevant extract of which reads as under :-

- “1. That the partition for total area of Khewat No. 368/335 min Khatauni No. 373 total land 16 Kanal 8 Marla situated in Village Badha, Tehsil Manesar, District Gurugram, there are joint khewats.*
- 2. That two plots will be created for the land parcel. The first khewat will belong to the applicants and the second khewat will belong to the counter-applicants.*
- 3. That the land should be partitioned while retaining the possession of the person to be partitioned.*
- 4. That the rules of land consolidation should be kept in mind while dividing the land.*
- 5. That if the land to be partitioned is adjacent to a road or path, then all the parties will be given land according to their share.*
- 6. That if Rastajat is required for the land parcel, then Rastajat should be given and the land of Rastajat should be deducted from the total land.*

7. *That if any party has constructed a house or installed tubewell in the land to be partitioned, it should be kept in their share.*
8. *That while partitioned the land, it should also be kept in mind that if other land of the share holders is adjacent to it, then Khewat will be made adjacent to it.*
9. *That if there are any trees/plants in the partition khewat, then it should be kept under partition.*
10. *That the partition is a simple one, overseen by the Patwari and the local Girdawar. All expenses are fixed at Rs. /-, which will be borne by the applicant.”*

5.3 From a perusal of above extracted provisions contained in mode of partition, it would be apparent that in terms of Clause 5 thereof, each co-sharer was to be allotted area out of land parcel, which falls adjacent to road or path. Further, in terms of Clause 7 of mode of partition, if any party has constructed a house or installed a tubewell in the land under partition, same was to be kept in their share.

5.4 When the proposed partition [as reflected in aks shajra/site plan (Annexure P-10), which depicts the position emanating after the approval of Naksha 'Bey'], is seen in the context of Clauses 5 and 7 of mode of partition, it would be apparent that land under partition is comprised in three separate land pockets and petitioners have been allocated area shown in blue colour, whereas area shown in yellow colour has been allotted to respondent No. 5 (M/s S.S. Group Private Limited). Now, when objections raised by petitioners that they have constructed three rooms and installed a tubewell alongwith an electricity connection in land comprised in Rect. No. 23, Killa No. 6/1 (as reflected in site plan- Annexure P-25 at page 135), is considered in light of aks shajra

(Annexure P-10) prepared in terms of proposed Naksha 'Bey', it is seen that the area comprised in Rect. No. 23, Killa No. 6/1/1 (where petitioners claim that they have constructed three rooms and tubewell with electricity connection) already stands allotted to petitioners; which is in consonance with Clause 7 of mode of partition.

5.5 Further, it is not disputed that land comprised in Rect. No. 23, Killa No. 6/1 and 7/1/2/1 and also land comprised in Rect. No. 24, Killa No. 10/1/1 falls on sector road. In terms of Clause 5 of mode of partition, petitioners have been allocated frontage of 41 karams on sector road, whereas respondent No. 5 (M/s S.S. Group Private Limited) has been allocated frontage only to the extent of 29 karams (i.e. 4 karams from Killa No. 23//6/1/2, 13 karams from Killa No. 23//7/1/2/1 and 12 karams in Killa No. 24//10/1/1).

5.6 Apparently, petitioners have been allocated most valuable portion (falling on sector road) with maximum frontage on sector road. In my considered view, aforesaid allocation of land is in consonance with Clause 5 of mode of partition (Annexure P-13), which clearly provided that if any area of land under partition falls on road or path then same was to be allotted to the parties as per their share. Therefore, there is no merit in first objection, raised on behalf of petitioners and same is accordingly rejected.

6. As regards second objection raised on behalf of petitioners that area comprised in Rect. No. 23, Killa No. 10/2 does not have any passage/path to it; it is observed that firstly, there is no revenue rasta touching the area comprised in Rect. No. 23 Killa No. 10/2 and secondly, it is not petitioners alone who have been allocated area out of land

comprised in Rect. No. 23, Killa No. 10/2. Rather respondent No. 5 (M/s S.S. Group Private Limited) has also been allocated area in said killa number, inasmuch as that Killa No. 23//10/2/1 has been allocated to petitioners and area comprised in Killa No. 23//10/2/2 has been allotted to respondent No. 5 (M/s S.S. Group Private Limited). If there is no passage to the said land pocket then same is position for respondent No. 5 (M/s S.S. Group Private Limited) as well, therefore, second objection raised on behalf of petitioners is also found to be without any merit and same is accordingly rejected.

7. As regards the third contention that the area comprised in Killa No. 23//10/2 is land locked by other area owned by respondent No. 5 and its sister concern companies; suffice it to observe that the other area owned by respondent No. 5 and its sister concern companies is not the subject matter of partition proceedings. If respondent No. 5 owns the adjoining land of Killa No. 23//10/2 then no exception can be taken to that. At best, the petitioners may seek an easementary right of passage, however, in that eventuality, the remedy shall lie elsewhere. Accordingly, the third contention of the petitioners is also rejected.

8. Further, it is well established that partition can never be carried out with mathematical precision and some adjustments are always required to be made considering various factors like number of co-sharers in the joint land, shape of the land parcel 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.

9. That apart, learned senior counsel appearing for petitioners has failed to point out as to what prejudice has been caused to petitioners by the manner in which partition was proposed and approved by way of Naksha 'Bey'.

10. In my considered view, Naksha 'Bey' has been prepared in a fair and equitable manner and in consonance with provisions contained in mode of partition dated 08.05.2025 (Annexure P-13), which does not call for any interference.

11. It has also been informed that as on date, even Naksha 'Zeem' and sanad takseem (instrument of partition) stand issued in the aforesaid partition proceedings.

12. No other argument was raised.

13. Considering the totality of circumstances, I find no merit in this civil writ petition and same is accordingly, dismissed.

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

(HARSH BUNGER)
JUDGE

22.12.2025
sjks

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