



**CM-4409-CWP-2026 in/and
CWP-11895-2025 (O&M)**

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

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**CM-4409-CWP-2026 in/and
CWP-11895-2025 (O&M)
Date of decision: 19.05.2026**

Shamsher Singh

....Applicant/Petitioner

Vs.

State of Punjab and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Kulbir Sekhon, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Sr. DAG, Punjab.

HARSH BUNGER J. (Oral)

CM-4409-CWP-2026:

The present application has been filed under under Order 9 Rule 9 read with Section 151 of the Code of Civil Procedure, for restoration of the main case bearing CWP No.11895 of 2025 to its original number.

For the reasons mentioned in the present application, the same is allowed and the writ petition (CWP-11895-2025) is restored to its original number and status; and is taken up on Board today itself.

Main case:

Petition herein is, *inter alia*, seeking a writ in the nature of Certiorari, for setting aside the order dated 23.07.2009 (Annexure P-7) passed by learned Assistant 1st Grade, Gidderbaha, whereby Naksha Bey in the partition proceedings was approved; order dated 12.05.2010 (Annexure P-6) passed by learned Collector, Gidderbaha, whereby the appeal preferred



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by the petitioner against the order dated 23.07.2009 (Annexure P-7) was dismissed; order dated 04.12.2012 (Annexure P-5) passed by learned Commissioner, Ferozepur Division, Ferozepur, whereby revision petition preferred by petitioner was dismissed; *Sanad Takseem* dated 15.03.2013 (Annexure P-8) passed by learned Assistant Collector 1st Grade, and also the order dated 24.01.2023 (Annexure P-4) passed by learned Financial Commissioner (Appeals), Punjab, whereby the revision petition(s) preferred by petitioner challenging the partition proceedings have been dismissed.

2. Briefly, respondents No.6 to 11 herein are stated to have filed 7 separate applications seeking partition of joint land comprised in 7 different khewats namely:-

Khewat No.	Area
51	250K-19M
41	18K-0M
43	11K-11M
44	14K-2M
46	66K-16M
47	16K-07M
50	12K-0M

2.1 The aforesaid land is situated in village Chak Giljewala, Tehsil Gidderbaha, District Sri Muktsar Sahib, and the aforesaid partition applications have been filed on the basis of jamabandi for the year 2000-01.

3. The petitioner appears to have participated in the aforesaid partition proceedings and submitted his reply. It transpires that the aforesaid partition proceedings, were directed to be conducted by clubbing the



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partition applications and a joint mode of partition came to be prepared. Although, the petitioners have not placed on record a copy of mode of partition, the relevant clauses thereof have been reproduced in the order dated 20.03.2008, the relevant extract of which reads as under:-

- “1. Partition shall be done by retaining possession. During partition if there is requirement of disturbance of possession then it can be a little change.*
- 2. The deficiency shall be 3 marlas and the increase shall be made up from the area adjacent to the loss.*
- 3. The owner who has transferred or mortgaged the area will be allotted to him.*
- 4. The trees will be kept intact and water course and passage will be allotted from common area.*
- 5. House constructed will be allotted to its owner.*
- 6. Owner who sold/transferred/mortgaged area than their share will be effect on last vendee”*

4. On the basis of the aforesaid approved mode of partition, Naksha *Bey/Arra* was called from the field staff. On receipt of Naksha *Bey/Arra*, the objections of the parties were sought thereto. However, since no objections thereto, were filed, the Naksha *Bey/Arra* came to be approved vide order dated 20.03.2008.

4.1 In the interregnum, the petitioner challenged Naksha *Alif/Urra* by filing an appeal before the learned Collector, Gidderbaha, which came to be allowed vide order dated 03.09.2008, and the matter was remanded to the learned Assistant Collector.

4.2 Upon remand, learned Assistant Collector, continued with the partition proceedings and vide order dated 23.07.2009 (Annexure P-7)



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approved *Naksha Bey/Arra* by maintaining the earlier order dated 20.03.2008 .

4.3 Feeling dissatisfied, the petitioner preferred an appeal before the learned Collector, Gidderbaha, however, the same was dismissed vide order dated 12.05.2010 (Annexure P-6).

4.4 Still aggrieved, the petitioner preferred a revision before the learned Commissioner, Ferozepur Division, Ferozepur, which was also dismissed vide order dated 04.12.2012 (Annexure P-5).

4.5 Still dissatisfied, the petitioner preferred revision petition(s) before the learned Financial Commissioner (Appeals), Punjab.

4.6 During the pendency of the aforesaid revision petition(s), it appears that the learned Assistant Collector, concluded the partition proceedings by drawing the *Sanad Takseem* dated 15.03.2013 (Annexure P-8 at Page 51 of paperbook). Subsequently, the revision petition(s) preferred by the petitioner before the learned Financial Commissioner, also came to be dismissed vide a common order dated 24.01.2023 (Annexure P-4).

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

6. Before this Court, learned counsel appearing for the petitioner has primarily raised three submissions namely:-

- (i) that the petitioner was not afforded any opportunity to file objections to the mode of partition;



- (ii) that the partition proceedings have been wrongly carried out by clubbing the partition applications, although, there are different co-sharers in different khewats;
- (iii) that the partition has not been carried out in an equitable manner and even the residential area has been partitioned.

7. I have heard the learned counsel for the petitioner and perused the paperbook with his able assistance.

8. In the present case, the learned Commissioner as well as the learned Financial Commissioner, have clearly recorded in their respective orders that the petitioner never challenged the mode of partition, which was approved in the present proceedings. The relevant extract of the order dated 24.01.2023 (Annexure P-4) passed by learned Financial Commissioner (Appeals), Punjab, reads as under:-

*“I have considered the arguments advanced by counsels for both the parties and have also gone through the record of AC-I Grade. Both the courts below have concurrently rejected the contentions of the petitioners. **The partition has been done in accordance with the approved Mode of Partition, which was never challenged by the petitioners.** The petitioners have failed to point out any deviation from the approved Mode of Partition. From perusal of partition papers it appears that the parties have been given due share in the partition. A perusal of colored map also shows that that the partition has been done in a reasonable manner, which does not deserve any interference at this stage. Lastly, since the Warrant of possession has also been effected then the matter has now become infructuous. At this*



stage there is no reason to give any further directions regarding the case. The present petitions are accordingly dismissed.”

(Emphasis supplied)

9. Now coming to the first contention raised on behalf of the petitioner that he has not been afforded any opportunity to file objections to mode of partition, it has been observed that the petitioner has not placed on record any zimni orders passed by learned Assistant Collector in the partition proceedings, so as to enable this Court to examine the aforesaid contention raised on behalf of the petitioner that no opportunity was afforded to the petitioner to file objections to the mode of partition. In the absence of the relevant material, this Court has no option, but to rely upon the observations made by the learned Commissioner as well as learned Financial Commissioner, that the petitioner has never challenged the mode of partition. In my considered view, once the petitioner was aware that the mode of partition has been prepared and even assuming that he was not afforded any opportunity to raise objections by the learned Assistant Collector, in that eventuality the petitioner was well within his rights to prefer an appeal before the Higher Authority so as to agitate his claim that he has not been afforded any opportunity to file objections to the mode of partition. No such course appears to have been adopted by the petitioner. In view of the above, I find no merit in the first contention and the same is rejected.

10. As regards the second contention that the partition has been wrongly carried out by clubbing the khewats, suffice it to say that since a common mode of partition (as reproduced above) was prepared by clubbing



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the partition application(s) and further, no challenge was made to the approved mode of partition by the petitioner, which is always considered as the backbone of the partition; now at this stage after the partition proceedings have been concluded, the petitioner cannot be permitted to agitate that the partition has been wrongly carried out by clubbing the partition application(s). Therefore, the second contention of the petitioner is also found to be without any merit and the same is accordingly, rejected.

11. As regards the third contention that the partition has not been carried out in an equitable manner, it is observed that the petitioner has not placed on record any site plan in respect of land under partition, so as to enable this Court to examine the aforesaid contention raised on behalf of the petitioner. It is noticeable that earlier also the petitioner had filed writ petition bearing CWP No.33976 of 2024, which was withdrawn by the petitioner vide order dated 17.12.2024 with liberty to file fresh with better particulars; even then the relevant record which may have substantiated the contention raised on behalf of the petitioner, have not been attached with the present writ petition. There is nothing on record to suggest that the partition proceedings in question have not been carried out in fair, just and equitable manner. Accordingly, the third contention raised on behalf of petitioner is also rejected.

11.1 Likewise, the plea of the petitioner that even the residential area has been partitioned, is without any merit as it has not been pointed out that the said residential area is comprised in which khasra number. Rather a perusal of the Naksha *Jeem* attached with *Sanad Takseem* (as available at



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page No. 52 to 56) would show that only the area which has been recorded as “*nehri*” has been partitioned by the Revenue Authorities and the area for passage/watercourse has been kept joint between the parties. There is no material on record to suggest as to which residential area has been partitioned, nor learned counsel for the petitioner could substantiate the said plea during the course of hearing of this petition. Accordingly, the said plea of the petitioner is also rejected.

12. In view of the above discussion, I see no compelling reason which may warrant interference by this Court in the present proceedings. Resultantly, the instant writ petition fails and the same is accordingly ***dismissed.***

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

19.05.2026

Ankit

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No