

126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-33324-2025 (O/M)
Date of decision : 09.03.2026

Ram Jawari Petitioner

Versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Abhinav Aggarwal, Advocate
for the petitioner.

Mr. Pankaj Mulwani, Senior DAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Prayer in the instant 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 17.11.2023 (Annexure P-13), passed by learned Collector, Kaithal (in short 'Collector') as well as order dated 18.12.2024 (Annexure P-15), passed by learned Commissioner, Karnal Division, Karnal (in short 'Divisional Commissioner').

2. Briefly, on 20.06.2019, petitioner sought partition of joint land, measuring 91 Kanal – 15 Marla, comprised in 8 separate khewats i.e. khewats No. 291, 292, 399, 400, 654, 655, 668 and 669, situated at village Sirsal, Tehsil Pundri, District Kaithal (as per jamabandi for the year 2015-16).

2.1 In the aforesaid partition proceedings, mode of partition came to be approved on 07.01.2021 (Annexure P-4) and thereafter, Naksha 'Bey' came to be prepared on 30.04.2021.

2.2 Upon receipt of proposed Naksha 'Bey' on the court file, objections of parties were sought, wherein petitioner submitted certain objections, which came to be accepted and an amended Naksha 'Bey' was sought.

2.3 On 18.03.2022, an amended Naksha 'Bey' was produced on court file; wherein respondents No. 5 to 7 submitted their objections.

2.4 It transpires that the amended Naksha 'Bey' dated 18.03.2022 (Annexure P-8) came to be approved, vide order dated 22.12.2022 (Annexure P-10) by rejecting the objections of respondents No. 5 to 7 herein.

2.5 Feeling aggrieved against aforesaid order dated 22.12.2022 (Annexure P-10), respondents No. 5 to 7 herein preferred an appeal before learned Collector; however, during the pendency of aforesaid appeal, Naksha 'Zeem' was prepared on 25.01.2023. Subsequently, learned Collector, vide order dated 17.11.2023 (Annexure P-13), allowed the appeal, preferred by respondents No. 5 to 7 and remanded the matter to Assistant Collector concerned for deciding the same afresh after inspecting the spot.

2.6 Feeling dis-satisfied, petitioner preferred an appeal before learned Divisional Commissioner, which has also been dismissed, vide order dated 18.12.2024 (Annexure P-15).

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

4. Learned counsel for petitioner submits that learned Collector as well as learned Divisional Commissioner have erred in law and facts in remanding the matter to Assistant Collector concerned for deciding Naksha 'Bey' afresh by affording opportunity to the parties to submit their objections and after inspecting the spot. It is submitted that the impugned orders are non-speaking and, therefore, unsustainable in the eyes of law.

4.1 It is further submitted that earlier the petitioner had filed a suit for permanent injunction; wherein a compromise dated 15.11.2011 (Annexure P-1) was arrived at between the parties. It is the case of petitioner that Assistant Collector had approved amended Naksha 'Bey' dated 18.03.2022 (Annexure P-8), which was infact prepared on the basis of above referred compromise dated 15.11.2011 (Annexure P-1). Accordingly, it is submitted that the impugned orders be set aside and order dated 22.12.2022 (Annexure P-10), passed by Assistant Collector, approving the amended Naksha 'Bey' dated 18.03.2022 (Annexure P-8)/ final partition, be maintained.

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

6. Apparently, in this case, an amended Naksha 'Bey' dated 18.03.2022 (Annexure P-8) came to be approved by Assistant Collector concerned, vide order dated 22.12.2022 (Annexure P-10); whereby the objections of respondents No. 5 to 7 to the above referred Naksha 'Bey' dated 18.03.2022, were rejected.

6.1 Feeling aggrieved, respondents No. 5 to 7 preferred an appeal before learned Collector, primarily on the ground that they have not been afforded any opportunity of submitting objections by Assistant Collector, nor the spot was visited/inspected before approving Naksha 'Bey'.

6.2 The aforesaid grounds raised by respondents No. 5 to 7 found favour with learned Collector; who vide order dated 17.11.2023 (Annexure P-13), remanded the matter to Assistant Collector concerned, for deciding the matter afresh after affording opportunity to parties to submit their objections and after visiting the spot. The said order has been further affirmed by learned Divisional Commissioner.

6.3 Before this Court, only ground sought to be raised by petitioner is that Naksha 'Bey' dated 18.03.2022 (Annexure P-8), which was approved by Assistant Collector concerned, vide order dated 22.12.2022 (Annexure P-10), had infact been prepared in terms of compromise dated 15.11.2011 (Annexure P-1), which was arrived at between the parties before the civil court. Accordingly, it is contended that there is no fault with Naksha 'Bey' dated 18.03.2022 (Annexure P-8).

6.4 I have carefully perused the compromise (Annexure P-1); however, it is not discernible therefrom as regards the khasra numbers, regarding which the said compromise (Annexure P-1) was executed. Rather only Rectangle numbers are mentioned therein, but there is also no reference to the relevant jamabandi therein. Furthermore, the said compromise is only in respect of 43 Kanal – 5 Marla area, whereas total joint land under partition between the parties is 91 Kanal – 15 Marla.

Moreover, the aforesaid compromise (Annexure P-1) is stated to be

executed on dated 15.11.2011; however, it is not shown that the said compromise was ever reflected in the revenue record(s).

6.5 Be that as it may, the ground raised by respondents No. 5 to 7 before learned Collector was that they have not been given any opportunity by Assistant Collector concerned, nor the spot was inspected before approving Naksha 'Bey'. The said ground found favour with learned Collector and he has remanded the matter to Assistant Collector concerned for deciding the matter afresh with a clear direction that due opportunity be afforded to parties to submit their objections; thereafter inspect the spot and then proceed in the matter. The aforesaid order passed by learned Collector has been further affirmed by learned Divisional Commissioner.

6.6 In my considered view, there is no error in the approach adopted by learned Collector as well as learned Divisional Commissioner; especially considering the fact that the compromise dated 15.11.2011 (Annexure P-1) is only in respect of 43 Kanal – 5 Marla area, whereas the total land under partition is 91 Kanal – 15 Marla. Therefore, by any stretch of imagination, compromise (Annexure P-1) could not have been made the basis for preparing the Naksha 'Bey' dated 18.03.2022 (Annexure P-8), as claimed by petitioner.

6.7 In my considered view, learned Collector has rightly set aside order dated 22.12.2022 (Anenxure P-10); whereby amended Naksha 'Bey' dated 18.03.2022 (Annexure P-8) was approved.

7. Resultantly, the instant civil writ petition fails and same is accordingly, dismissed.

8. Before parting with this order, it is observed that partition proceedings are pending since year 2019 i.e. almost 7 years, therefore, it is directed that Assistant Collector shall make earnest endeavour to decide and conclude the partition proceedings expeditiously.

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

(HARSH BUNGER)
JUDGE

09.03.2026
sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No