



CWP-36892-2025 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

120

CWP-36892-2025 (O&M)

Date of decision: 28.04.2026

Baljit Singh and others

....Petitioners

Vs.

Commissioner, Rohtak Division and others

....Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. N.P.S. Mann, Advocate
for the petitioners.

Mr. Rajiv Malhotra, DAG, Haryana.

HARSH BUNGER J. (Oral)

1 Petition herein is, *inter alia*, seeking a writ in the nature of Certiorari, for setting aside the order dated 15.05.2023 (Annexure P-10) passed by learned Assistant Collector 1st Grade, Khanpur Kalan whereby Naksha *Kha/Bey* was approved.

1.1 A further prayer has been made for setting aside the order dated 16.07.2024 (Annexure P-14) passed by learned Sub-Divisional Officer-cum-Collector, Gohana, whereby an appeal filed by petitioners No.1 and 2 against the order dated 15.05.2023 (Annexure P-10) was rejected.

1.2 Another prayer has been made for setting aside the order dated 30.05.2025 (Annexure P-17) passed by learned Commissioner, Rohtak Division, Rohtak in revision petition No.187 of 2024 filed by petitioner No.1 and 2 herein; and order dated 30.05.2025 (Annexure P-18) passed in revision petition No.188 of 2024 filed by petitioner No.3 (Suman).



2. Briefly, on 03.10.2022, respondents No.4 to 7 herein filed an application seeking partition of joint land measuring 99 kanal - 19 marla, comprised in khewat No.38/38 (as per jamabandi for the year 2018-19), situated at village Sirsadh, Tehsil Gohana, District Sonapat. In the partition application, present petitioners No.1 and 2 were impleaded as respondents No.4 and 5, whereas petitioner No.3 was impleaded as respondent No.1. Similarly, proforma respondent No.8 – Hardeep, who is the real brother of petitioner No.3 – Suman was also impleaded as respondent No.2 in the partition application.

3. In the aforesaid partition proceedings, notices were issued to the respective parties. From a perusal of para No.7 of the writ petition, it appears that the proforma respondent No.8 (Hardeep), duly accepted the notices and participated in partition proceedings.

4. On the other hand, petitioners No.1 and 2 appeared in the partition proceedings on 30.01.2023, however, they did not appear on the subsequent date i.e. 10.02.2023 and accordingly they were proceeded against ex parte vide order dated 10.02.2023 (Annexure P-21), the relevant extract thereof reads as under:-

“The case file was produced. Learned counsel for the plaintiff was present on 30.01.2023. Defendant No. 3 is present in Court. On the previous date of hearing, defendant Nos. 2, 4 and 5 were present in Court; however, today they did not appear before the Court. Repeated calls were made, and as the Court time was about to be over, defendant Nos. 2, 4 and 5 still failed to appear. Accordingly, proceedings against defendant Nos. 2, 4 and 5 are ordered to be conducted ex parte. The summons issued for appearance of defendant No. 1 has been



received back by the Court with the report that intimation was duly served upon defendant No. 1; however, despite such intimation, defendant No. 1 did not appear before the Court. Now, summons for defendant No. 1 be issued through munadi (proclamation) and the case file be put up on dated 01.03.2023.”

5. Apparently, petitioner No.3 (Suman) was stated to be served, however since no one appeared on her behalf in the partition proceedings, accordingly, the learned Assistant Collector directed that she be served through proclamation (*mushtari munadi*) in the village.

5.1 The *mushtari munadi* is stated to have been carried out in the village vide rapat No.207 dated 28.02.2023 and despite proclamation nobody appeared on behalf of petitioner No.3 (Suman), accordingly she was proceeded against ex parte vide order dated 01.03.2023.

6. It appears that after the mode of partition was approved, Naksha Bey was approved vide order dated 15.05.2023 (Annexure P-10).

7. It transpires that the petitioners No.1 and 2 challenged the order dated 15.05.2023 (Annexure P-10) by filing an appeal before the learned Collector, Gohana, primarily on the plea that they were in exclusive possession of land comprised in khasra Nos.58//21/1 and 20/3 whereas they have wrongly been allocated area comprised in khasra Nos.63//4/1/3.

7.1 The appeal filed by the petitioners No.1 and 2 challenging Naksha Bey dated 15.05.2023 (Annexure P-10) came to be dismissed by learned Collector, Gohana, vide order dated 16.07.2024 (Annexure P-14).

8. Still aggrieved, petitioners No.1 and 2 preferred their revision petition No.187 dated 19.09.2024 before learned Commissioner, Rohtak

**CWP-36892-2025 (O&M)****-4-**

Division, Rohtak. Similarly, petitioner No.3 (Suman) also filed her separate revision petition No.188 dated 19.09.2024 before the learned Commissioner, Rohtak Division, Rohtak.

9. Both the aforesaid revision petitions came to be dismissed vide separate orders of even date i.e. 30.05.2025. The revision petition No.187 of 2024 filed by petitioners No.1 and 2 was dismissed vide order dated 30.05.2025 (Annexure P-17), whereas revision petition No.188 of 2024 filed by petitioner No.3 (Suman) was dismissed vide order dated 30.05.2025 (Annexure P-18).

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

11. At the outset, it is required to be noticed that earlier, the petitioners had filed writ petition bearing CWP No.27360 of 2025, which was withdrawn by the learned counsel for the petitioners, with liberty to the petitioners to file a fresh one with better particulars vide order dated 22.09.2025 (Annexure P-19). Thereafter, the petitioners filed another writ petition bearing CWP No.31162 of 2025, which was again withdrawn by the petitioners, with liberty to the petitioners to file afresh with better particulars within a period of two weeks from the date of order i.e. 17.10.2025 (Annexure P-20). Accordingly, the present writ petition has been filed now.

12. Learned counsel for the petitioners submits that the petitioner No.3 (Suman) was wrongly proceeded against ex parte as she is not residing in the village Sirsadh, where the land under partition is located. It is submitted that petitioner No.3 – Suman was already married and was residing in Jind.



12.1 It is further submitted that while preparing Naksha *Bey* the possession of the petitioners over specific khasra numbers have been disturbed, therefore, the partition proceedings are unsustainable and are liable to be set aside.

13. I have heard the learned counsel for the petitioners and perused the paperbook with his able assistance.

14. It is apposite to state here that petitioners have not attached the copy of the sanctioned mode of partition with this petition.

15. As regards the first contention of the petitioners that petitioner No.3 has been wrongly proceeded against *ex parte* as she is not residing in village Sirsadh after her marriage and is presently residing in Jind; it is observed that as per zimni order dated 10.02.2023 (Annexure P-21) the petitioner No.3 – Suman was stated to have been served, however, since she did not appear, accordingly, learned Assistant Collector, directed service upon petitioner No.3 (Suman) by way of proclamation (*mushtari munadi*) in the village, which was duly carried out in the village vide rapat No.207 dated 28.02.2023.

15.1 Learned counsel for the petitioner has not shown any report to this Court which may indicate that petitioner No.3 (Suman) was not residing in the village. It is also not disputed before this Court that the real brother of the petitioner No.3 (Suman) namely Hardeep (proforma respondent No.8), was also a party in the partition proceedings, who was duly served and even appeared in the partition proceedings.

15.2 Even if it is assumed that the notices/registered notices issued to the petitioners were not served upon petitioner No.3 - Suman, however,



there is nothing on record to dispute the fact that proclamation (*mustri munadi*) was carried out in the village. Service through *munadi* (proclamation) is one of the accepted modes prescribed under Section 20 of the Haryana Land Revenue Act, 1887 for effecting service. There is no material on record to indicate that no *munadi* (proclamation) was carried out in the village. In the aforementioned circumstances, it has to be taken that the petitioner No.3 was aware of the partition proceedings and she intentionally stayed away for the reasons best known to her. Despite, carrying out *munadi* in the village, petitioner No.3 did not appear in partition proceedings, accordingly, she was proceeded against *ex parte* vide order dated 01.03.2023 (Annexure P-7). Accordingly first contention of the petitioners is rejected.

16. As regards the second contention that the possession of the petitioners over specific khasra numbers has been disturbed; suffice it to say, that as per the jamabandi for the year 2018-19 (Annexure P-1), the entry in the cultivation column No.5, regarding the entire land under partition is shown as “*khudkasht*” i.e. joint possession of all the co-ownerse. It is not disputed that rebuttable presumption of truth is attached to the entries in the revenue records. Since, the exclusive possession of the petitioners over specific khasra numbers is not borne out from the jamabandi on record, I find no merit in the second contention raised on behalf of the petitioners and the same is accordingly rejected.

17. Be that as it may, learned counsel for the petitioners was called upon to demonstrate, as to what prejudice has been caused to the petitioners by the manner in which the partition has been conducted between the

**CWP-36892-2025 (O&M)****-7-**

co-sharers, however, learned counsel for the petitioners has failed to respond to the same.

18. It is not the case of the petitioners that they have not been allotted area as per their due entitlement or that they have suffered any loss of share in the partition proceedings. It has also not been pointed out as to whether any inferior quality land has been allotted to petitioners and/or that they have been discriminated in the matter of allotment of valuable or more preferential areas out of land under partition.

19. Hon'ble Supreme Court in case of "***Gadde Venkateswara Rao vs Government Of Andhra Pradesh and others***", AIR 1966 Supreme Court 828, held that unless failure of justice is occasioned, the Court may refuse to exercise the extraordinary jurisdiction vested in it.

20. No other argument has been raised.

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

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

28.04.2026

ankit

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No