

123 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9817-2025 (O/M)
Date of decision : 25.08.2025

Hans Raj Petitioner

Versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Arvind Kumar Yadav, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Hans Raj) 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 setting aside order dated 12.01.2022 (Annexure P-16) and order dated 07.02.2022 (Annexure P-19), passed by Assistant Collector 1st Grade, Rewari (in short 'Assistant Collector'); order dated 01.08.2024 (Annexure P-21), passed by learned Commissioner, Gurugram Division, Gurugram (in short 'Divisional Commissioner'); order dated 16.10.2024 (Annexure P-22), passed by learned Financial Commissioner, Haryana (in short 'Financial Commissioner') and order 04.12.2024 (Annexure P-24), passed by learned Financial Commissioner in review application, submitted by the petitioner.

2. Briefly, one Shri Latur son of Shri Ruda sought partition of joint land, comprised in Khewat No. 6/5, measuring 669 Kanal – 14

Marla (as per jamabandi for the year 2001-02), situated at village Bhudla, Tehsil and District Rewari, wherein the petitioner appeared through his counsel Shri Dhanpat Singh, Advocate. In the partition proceedings, mode of partition (Annexure P-4) came to be approved, vide order dated 17.09.2003 and Naksha 'Bey' was called from the field staff.

2.1 Upon receipt of Naksha 'Bey', objections thereto were called from the respective parties, whereupon various objections were filed by co-sharers including the petitioner and his brother. Thereafter, the spot was inspected by Assistant Collector on 18.03.2009 and all the objections to Naksha 'Bey' were dismissed and Naksha 'Bey' was approved, vide order dated 01.04.2009 (Annexure P-8).

2.2 The aforesaid order dated 01.04.2009 (Annexure P-8) came to be challenged by Sukhram and others before learned Collector, Rewari (in short 'Collector'), which was allowed, vide order dated 31.08.2010 (Annexure P-9) and the matter was remanded to Assistant Collector.

2.3 Thereafter, the Assistant Collector called amended Naksha 'Bey' and upon receipt of the same, objections thereto were called, whereupon petitioner and co-sharers again submitted their objections (Annexure P-15). It appears that the Assistant Collector, vide order dated 12.01.2022 (Annexure P-16), partly allowed the objections, raised by the parties. Thereafter, another Naksha 'Bey' was received on the case file and the matter was again fixed for filing objections to amended Naksha 'Bey'. It is stated that thereafter, the Assistant Collector without giving any opportunity for filing objections to amended Naksha 'Bey', confirmed the same, vide order dated 07.02.2022 (Annexure P-19).

2.4 Feeling aggrieved against order dated 07.02.2022 (Annexure P-19), petitioner filed an appeal before learned Collector, however, the same was dismissed, vide order dated 26.05.2023 (Annexure P-20). Even a revision petition filed before learned Divisional Commissioner has also been dismissed, vide order dated 01.08.2024 (Annexure P-21).

2.5 Thereafter, the petitioner filed a revision petition (ROR-314/2023-24) before learned Financial Commissioner, which has also been dismissed, vide order dated 16.10.2024 (Annexure P-22).

2.6 Still dis-satisfied, the petitioner sought review of the order dated 16.10.2024 (Annexure P-22), however, same has been dismissed, vide order dated 04.12.2024 (Annexure P-24).

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

4. Before this Court, learned counsel for petitioner mainly contends that the petitioner was in possession of area comprised in Rect. No. 44, Killa No. 14/1 and also has constructed two rooms, a varanda, tubewell, solar system etc. there, which is apparent from the photographs attached with the writ petition, however, the said area has been allotted to some other co-sharers. It is further submitted that the area of the petitioner, adjoining to National Highway No. 8, has been unjustly reduced and that land comprised in Rect. No. 44, Killa No. 17/2, 24, 16/3 and 25/1 and also the area comprised in Rect. No. 53, Killa No. 4, has not been allocated to the petitioner, which is in violation of mode of partition. It is next submitted that the petitioner has constructed a hotel in

area comprised in Rect. No. 43, Killa No. 16/2 and 25, however, his possession on the said area has been disturbed. With the aforesaid submissions, prayer has been made for setting aside the partition proceedings/orders and for remanding the matter to Assistant Collector for deciding the matter afresh.

5. I have considered the aforesaid submissions raised on behalf of the petitioner and perused the paperbook with his able assistance.

6. During the course of hearing, learned counsel for petitioner was called upon to refer to revenue records to indicate that the constructions, as claimed to be raised by the petitioner on the land under partition, were existing on the day when the partition application was filed, however, learned counsel for petitioner has failed to refer to any revenue record nor any such record has been shown during the course of the hearing of this civil writ petition today.

6.1 It is well settled that the position/nature of the land under partition is to be seen on the day when the partition application is filed and in case, any of the co-sharer raises any construction after filing of partition application then same is done by him at his own risk and costs, which shall always be subject to final partition proceedings to be carried out between the parties.

6.2 Apparently, the partition proceedings in question are pending since year 2002 i.e. for the last more than 22 years and it appears that learned Financial Commissioner has rightly dismissed the revision petition, preferred by the petitioner by observing that revision petition aims at prolonging the legal battle. Even review application filed by petitioner, seeking review of order dated 16.10.2024 (Annexure P-22),

passed by learned Financial Commissioner, has been dismissed, vide order dated 04.12.2024 (Annexure P-24).

6.3 That apart, learned counsel for petitioner has failed to point out as to what prejudice has been caused to the petitioner in the manner in which final partition is carried out. It is not the case of the petitioner that he has been allocated land less than his due entitlement.

7. Considering the totality of circumstances, I find no compelling reasons to interfere in the impugned orders.

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

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

(HARSH BUNGER)
JUDGE

25.08.2025
sjks

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