

120 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9571-2025 (O/M)
Date of decision : 17.07.2025

Ramesh and others Petitioners

Versus

Commissioner, Rohtak Division, Rohtak and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Sandeep Parkash Chahar, Advocate
for applicant-petitioners.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

CM-9861-CWP-2025

1. Prayer in the instant application filed under Section 151 CPC is for placing on record coloured site plan/Naksha 'Kh' dated 15.09.2022 as Annexure P-10.

2. For the reasons mentioned in application, same is allowed and coloured site plan/Naksha 'Kh' dated 15.09.2022 (Annexure P-10) is taken on record subject to all just exceptions.

3. Application is accordingly disposed of.

CWP-9571-2025 (O/M)

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 26.04.2022 (Annexure P-2), passed by Assistant Collector 2nd Grade, Sampla (in short 'Assistant Collector'); sanad takseem dated 28.11.2022 (Annexure P-6)

and order dated 07.02.2024 (Annexure P-8), passed by learned Commissioner, Rohtak Division, Rohtak (in short 'Divisional Commissioner').

2. Briefly, respondent No. 3 (Sandeep) filed an application seeking partition of joint land, comprised in Khewat No. 237, measuring 36 Kanal – 6 Marla (as per jamabandi for the year 2015-16), situated in village Naya Bans, Tehsil Sampla, District Rohtak.

2.1 It appears from order dated 26.04.2022 (Annexure P-2) that in the said partition application, petitioners No. 1 to 3 herein were impleaded as respondents No. 1 and 2, respectively. A perusal of order dated 26.04.2022 (Annexure P-2) shows that in the said partition proceedings, the petitioners herein had appeared before Assistant Collector on 27.01.2020, however, they subsequently absented from the proceedings. Thereafter, it appears that mode of partition (Annexure P-4) was prepared on 31.05.2022 and the same was sanctioned on 19.07.2022. Thereafter, Naksha 'Kh' was prepared on 15.09.2022 (Annexure P-5) and the same was approved on 18.10.2022. Subsequently, Naksha 'Ga' was also prepared and ultimately, partition proceedings concluded with the drawing of sanad takseem dated 28.11.2022 (Annexure P-6).

2.2 Petitioners claim that they learnt about the partition proceedings in the month of February 2023 when the revenue staff came to the village for execution/implementation of sanad takseem, whereupon the petitioners applied for the certified copy of the relevant orders and thereafter preferred a revision petition before learned Divisional Commissioner, however, same was dismissed, vide impugned order dated 07.02.2024 (Annexure P-8).

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

4. Learned counsel for petitioners submits that the partition proceedings are bad as the petitioners have not been afforded any opportunity of hearing and that they (petitioners) were wrongly proceeded against ex-parte. It is further submitted that as per mode of partition, the partition was to be carried out by keeping the possession intact, however, in the partition, the possession of the petitioners over killa No. 19//23/1 has been disturbed by allotting 2 Kanal – 9 Marla out of said killa to respondent No. 3 (Sandeep), therefore, the partition is contrary to the sanctioned mode of partition. With the aforesaid submissions, prayer has been made for setting aside the partition proceedings.

5. Heard.

6. It is not disputed before this Court that in the partition proceedings, the petitioners had duly appeared before the Assistant Collector and the said fact is clearly admitted by the petitioners in para 11 of the writ petition. In this view of the matter, it cannot be said that the petitioners were not aware of the partition proceedings and that they were denied any opportunity of hearing by the Assistant Collector. Once, the petitioners had appeared in the partition proceedings, it was their duty to pursue the matter diligently. Apparently, after appearing in the partition proceedings, the petitioners subsequently absented from the partition proceedings and accordingly, they were proceeded against ex-parte, vide order dated 26.04.2022 (Annexure P-2) and the partition proceedings

continued and were finalized with the drawing of sanad takseem dated 28.11.2022 (Annexure P-6).

6.1 As regards other submission raised on behalf of petitioners that their possession over killa No. 19//23/1 has been disturbed and 2 Kanal - 9 Marla area from the said killa had been given to respondent No. 3 (Sandeep); suffice it to say that learned counsel for petitioners has not placed on record any document in the shape of khasra girdawari/jamabandi to prima facie show that killa No. 19//23/1 was in exclusive possession of the petitioners.

6.2 Be that as it may, from a perusal of sanad takseem (Annexure P-6) when considered in the light of Annexure P-10 (Aks Shajra attached to Naksha 'Kh'); it would be apparent that only part of killa No. 19//23/1 (which has been allotted to the extent of 2 Kanal – 9 Marla) has been allotted to respondent No. 3 (Sandeep) by carving out a new killa No. 23/1/1 and the balance area out of said killa No. 19//23/1 has been allocated to the petitioners alongwith other co-sharers jointly by carving out killa No. 19//23/1/2.

6.3 A perusal of Aks Shajra would show that in no manner it can be held that the petitioners have suffered any prejudice by the manner in which the partition has been carried out. It is only the share of respondent No. 3-Sandeep (to the extent of 2 Kanal – 9 Marla), which has been separated in the partition proceedings and the remaining entire area under partition has been kept joint between petitioners and other co-sharers.

7. In view of the above discussion, I find no compelling reasons to interfere in the partition proceedings/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

17.07.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No