



CWP-29406-2024 (O&M)

-1-

113

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

**CWP-29406-2024 (O&M)
Date of Decision:15.05.2025**

Tek Ram and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Aman Nain, Advocate
for the petitioners.

Ms. Upasana Dhawan, AAG, Haryana.

Mr. Rajesh Kumar Dhankhar, Advocate
for respondents No.7 to 9, 15 and 16.

HARSH BUNGER J. (ORAL)**CM-20257-CWP-2024 and CM-5909-CWP-2025:**

Prayer in the present applications filed under Section 151 CPC for placing on record the zimni orders passed by learned Assistant Collector, 1st Grade, Narwana in the partition application (Annexure P-1) as Annexures P-12 to P-29 (CM-20257-CWP-2024) and restoration application dated 22.04.2019 moved by respondent No.9 as Annexure P-30 (CM-5909-CWP-2025).

For the reasons mentioned in the applications, Annexures P-12 to P-29 (in CM-20257-CWP-2024) and Annexure P-30 (in CM-5909-CWP-2025) are taken on record, subject to all just exceptions.

Applications are accordingly disposed of.

CWP-29406-2024:

Prayer in the present writ petition, filed under Articles 226/227

of the Constitution of India, *inter alia*, is for issuance of a writ in the nature of Certiorari, for setting aside the impugned order dated 30.04.2024 (Annexure P-11) passed by respondent No.2-Financial Commissioner, Haryana, order dated 28.11.2023 (Annexure P-8) passed by respondent No.3-Commissioner, Hisar Division, Hisar, order dated 22.03.2022 (Annexure P-7) passed by respondent No.4-Sub Divisional Officer (C)-cum-Collector, Narwana, order dated 23.12.2019 (Annexure P-5) passed by respondent No.5-Assistant Collector, Ist Grade, Uchana and Amended Mode of Partition dated 23.12.2019 (Annexure P-6) passed by respondent No.5-Assistant Collector, 1st Grade, Uchana.

2. At the time of issuance of notice of motion, the contention of the learned counsel for the petitioners was recorded that partition application submitted by Rajender Singh (respondent No.6 herein) in the year 2016 was withdrawn by him on 18.04.2019; however subsequently respondent No.9-Kelapati submitted an application for restoration of the partition proceedings; whereupon the learned Assistant Collector while ordering restoration of the partition application, did not issue any notices to the present petitioners and proceeded with the partition proceedings. Resultantly, all the partition proceedings have been concluded at the back of the petitioners.

3. Mr. Rajesh Dhankar, Advocate appears and files *Vakalatnama* on behalf of respondents No.7 to 9, 15 and 16 in Court today, which is taken on record, subject to all just exceptions.

3.1. Learned counsel for respondents No.7 to 9, 15 and 16 very fairly submits that in fact no notices were issued to the present petitioners when the partition proceedings were ordered to be restored at the instance of respondent No.9-Smt. Kelapati and, therefore, they would have no objection

if the partition proceedings are set aside and the matter is remitted to the learned Assistant Collector 1st Grade, Uchana, for carrying out the partition proceedings afresh, after affording due opportunity of hearing to all the concerned parties, in accordance with law. However, he prays for time bound directions to be issued for completion of the partition proceedings.

4. In view of the above, since the partition proceedings have been carried out at the back of the petitioners without issuing notices to them, the partition proceedings are set aside and the matter is remitted to the learned Assistant Collector 1st Grade, Uchana, for carrying out partition proceedings afresh by taking into consideration the application(s) submitted by respondents No. 6 to 8 and respondent No.9-Kelapati and proceed with the matter, in accordance with law.

4.1. It is further directed that the partition proceedings be concluded within a period of six months from the date of appearance of the parties before learned Assistant Collector 1st Grade, Uchana, subject to any legal impediment and/or any orders passed by the higher authorities in respect of the partition proceedings.

4.2. The parties are directed to appear either personally or through their respective counsel(s) before the learned Assistant Collector 1st Grade, Uchana, on 30.05.2025.

5. The present writ petition is disposed of in the aforestated terms.

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

15.05.2025
Pd

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No