

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-5822-2025 (O/M)
Date of decision : 08.07.2025

Jarnail Singh and others Petitioners

Versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Vikram Singh, Advocate
for the petitioners.

Mr. Nirmaljit Singh Diwana, Senior DAG Punjab.

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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 orders dated 12.03.2018 (Annexure P-6); 28.05.2018 (Annexure P-7); 09.07.2018 (Annexure P-8); 04.08.2021 (Annexure P-11) and 17.08.2022 (Annexure P-13).

2. Briefly, the partition proceedings in respect of land measuring 254 Bigha – 1 Biswa were started way back in the year 1990 and it appears that vide order dated 27.05.1991, sanad takseem was also issued, however, subsequently, learned Collector, Rajpura (in short 'Collector') granted permission, vide order dated 25.04.1995 (Annexure P-2), for reviewing the sanad takseem dated 27.05.1991. Thereafter, Naksha 'Arra' was prepared on 17.08.1995. which was challenged by the petitioners by filing a revision petition before learned Commissioner, Patiala Division, Patiala, however, the same was dismissed, vide order dated 26.03.1998 (Annexure P-3).

2.1 Thereafter, the petitioners preferred a revision petition (ROR-759-1998) before learned Financial Commissioner, Appeals-I, Punjab, however, the same was dismissed, vide order dated 08.01.2008 (Annexure P-4).

2.2 It transpires that subsequently one of co-sharers, namely, Jagmal Singh, sought re-opening of the partition proceedings, whereupon an order dated 29.01.2018 (Annexure P-5), came to be passed and the partition proceedings proceeded further wherein, vide order dated 12.03.2018 (Annexure P-6), Naksha 'Erri' was called. The said order dated 12.03.2018 (Annexure P-6) was challenged by the petitioners by filing an appeal before the learned Collector, Dera Bassi, however, the same was dismissed, vide order dated 28.05.2018 (Annexure P-7).

2.3 It appears that partition proceedings culminated with the drawing of sanad takseem, vide order dated 09.07.2018 (Annexure P-8).

2.4 In the meantime, the petitioners preferred a revision petition, challenging the order dated 12.03.2018 (Annexure P-6) and order dated 28.05.2018 (Annexure P-7) before learned Commissioner, Rupnagar Division, Rupnagar, which was accepted, vide order dated 29.03.2019 (Annexure P-9). The aforesaid order dated 29.03.2019 (Annexure P-9) came to be challenged by respondents No. 5 and 6 by filing a revision petition (ROR-266-2019) before learned Financial Commissioner (Revenue), Punjab, primarily on the plea that learned Commissioner, Rupnagar Division, Rupnagar has no jurisdiction to hear the revision petition especially in the light of judgment rendered by this Court in the case of *Amar Khan and others Versus State of Punjab and others*.

2.5 It appears that aforesaid revision petition (ROR-266-2019) came to be allowed by learned Financial Commissioner (Revenue), Punjab, vide order dated 04.08.2021 (Annexure P-11).

2.6 Evidently, no challenge was made to order dated 04.08.2021 (Annexure P-11) by the petitioners. Rather, the petitioners again challenged the order dated 12.03.2018 (Annexure P-6); order dated 28.05.2018 (Annexure P-7) alongwith sanad takseem dated 09.07.2018 (Annexure P-8) by filing another revision petition (ROR-886-2021) before learned Financial Commissioner (Revenue), Punjab, however, the same was dismissed, vide order dated 17.08.2022 (Annexure P-13).

2.7 Thereafter, the petitioners approached this Court by way of filing a civil writ petition (CWP-21253-2022), challenging order dated 17.08.2022 (Annexure P-13), passed in ROR-886-2021, which was dismissed, vide order dated 12.08.2024 (Annexure P-14).

2.8 Thereafter, the petitioners filed an intra-court appeal (LPA-2167-2024), which was withdrawn by the petitioners, vide order dated 15.01.2025 (Annexure P-15).

3. In the aforementioned circumstances, now the petitioners have filed the instant civil writ petition before this Court against order dated 04.08.2021 (Annexure P-11), passed by learned Financial Commissioner in earlier revision petition (ROR-266-2019).

4. Heard.

5. Apparently, the petitioners had challenged the order dated 17.08.2022 (Annexure P-13), passed by learned Financial Commissioner (Revenue), Punjab, in revision petition (ROR-886-2021)

by filing a civil writ petition (CWP-21253-2022), which was dismissed, vide order dated 12.08.2024 (Annexure P-14), by holding as under :-

“2. Briefly, after a round of litigation between the parties in the matter relating to partition of joint land, the final order of partition by approving Naksha 'Erri' came to be passed by the learned Assistant Collector, vide order dated 12.03.2018 (Annexure P-6). An appeal against the aforesaid order dated 12.03.2018 (Annexure P-6) was dismissed by the learned Collector, vide order dated 28.05.2018 (Annexure P-7) and thereafter Sanad Takseem (instrument of partition) was issued on 09.07.2018 (Annexure P-8).

2.1 It transpires that an appeal filed by the petitioners before the learned Commissioner, Rupnagar Division, Rupnagar (in short 'Divisional Commissioner') against the order dated 28.05.2018 (Annexure P-7) was allowed, vide order dated 29.03.2019 (Annexure P-9) whereby the matter was remanded to the learned Collector for deciding the case after hearing the parties.

2.2 It appears that some of the co-sharers challenged the learned Divisional Commissioner's order dated 29.03.2019 (Annexure P-9) by filing a revision petition (ROR-266-2019) before the learned Financial Commissioner. In the said revision petition (ROR-266-2019), the present petitioners No 1 to 4 and predecessor of petitioners No. 5 and 6, namely, Shri Harnam Singh were impleaded as party respondents. The aforesaid revision petition (ROR-266-2019) came to be allowed by the then learned Financial Commissioner, vide order dated 04.08.2021 (Annexure P-11), the operative part of which reads as under :-

“9. Accordingly, the revision petition is accepted. The order dated 29.03.2019 passed by the Commissioner, Roopnagar Division, Roopnagar is set

aside. The order dated 28.05.2018 vide which the Sanad Takseem issued by the Assistant Collector Grade-I, Derabassi is upheld.”

2.3 *It further appears that in November, 2021, the present petitioners preferred a revision petition (ROR-886-2021) before the learned Financial Commissioner, seeking setting aside of the order dated 12.03.2018 (Annexure P-6), Sanad Takseem (instrument of partition) dated 09.07.2018 (Annexure P-8) and also the order dated 28.05.2018 (Annexure P-7). The said revision petition (ROR-886-2021) was dismissed by the learned Financial Commissioner, vide its order dated 17.08.2022 (Annexure P-13).*

3. *In the aforementioned circumstances, the petitioners have filed the instant civil writ petition for the relief(s), as noticed above.*

4. *I have heard learned counsel for respective parties and have also perused the paperbook with their able assistance.*

5. *Concededly, the Sanad Takseem (instrument of partition) prepared in the present partition proceedings came to be upheld by the learned Financial Commissioner, vide its order dated 04.08.2021 (Annexure P-11). It is not disputed before this Court that the petitioners were party respondents in (ROR-266-2019). It is further not disputed by learned counsel for petitioners that the petitioners have not laid any challenge to the aforesaid order dated 04.08.2021 (Annexure P-11) either by way of a separate writ petition or in the instant writ petition. Therefore, the order dated 04.08.2021 (Annexure P-11) has attained finality.*

5.1 *Further, the learned Financial Commissioner, while dismissing ROR-886-2021 filed by the petitioners, observed as under :-*

“9. I have considered the arguments put forth by the Ld. Counsels for both the parties. This case has the history of protracted litigation. The partition proceedings between the parties were going on for the last more than thirty years, which were ultimately decided by the AC 1st Grade vide order dated 12.03.2018. Against this order, appeal filed by the petitioners was dismissed by the Collector vide order dated 28.05.2018. Instrument of Partition (Sanad Takseem) was subsequently issued on 09.07.2018 by the AC 1st Grade. The petitioners, in the meanwhile, filed a revision petition before Ld. Commissioner, which was accepted vide order date 29.03.2019 and the matter was remanded to Collector for fresh decision. Against the order of Commissioner, the present respondents No. 1-12 filed a revision petition ROR No. 266 of 2019 before this Court, which was accepted by the then Financial Commissioner Revenue vide order dated 04.08.2021 on merits as well as on the ground that no appeal or revision was maintainable before Commissioner after issuance of Sanad Takseem. The then Financial Commissioner Revenue set aside the order of Commissioner and upheld the Sanad Takseem.

10. Now the petitioners through the instant revision petition, have challenged the Sanad Takseem issued by AC 1st Grade. However, as stated by the Ld. Counsel for the respondents, the present revision is not maintainable as the Sanad Takseem challenged in the instant petition has already been upheld by my predecessor in this Court, in case ROR No. 266 of 2019. The petitioners were also party to the said revision petition and their pleadings were duly considered by the then Financial Commissioner Revenue before deciding the case. Therefore, once the matter has been decided by this forum by upholding the Sanad Takseem, the instant petition challenging the same Sanad Takseem is not maintainable, being barred by the principle of res-judicata. Hence, the present revision petition is dismissed.”

5.2 From the aforementioned facts and circumstances, it is evident that the Sanad Takseem (instrument of partition) was upheld by the learned Financial Commissioner, vide order dated 04.08.2021 (Annexure P-11), passed in ROR-266/2019 and the said order has attained finality. It has further been brought the

notice of this Court that the final partition/sanad takseem already stands reflected in the revenue records by way of mutation No. 2545. In this view of the matter, once the petitioners have not laid any challenge to the order dated 04.08.2021 (Annexure P-11), no relief can be granted to the petitioners nor they can be permitted to reopen the finalized partition proceedings.

6. In view of the above discussion, I do not find any merit in the instant civil writ petition and the same is accordingly dismissed.”

5.1 A perusal of the above extracted order dated 12.08.2024 (Annexure P-14) would show that a categorical finding was recorded therein that as far as partition in question is concerned, the same was concluded with the drawing of sanad takseem dated 09.07.2018, which was upheld, vide order dated 04.08.2021, passed by learned Financial Commissioner in ROR-266-2019 and the said order dated 04.08.2021 has attained finality. Infact challenge to sanad takseem by way of filing another ROR-886-2021 before learned Financial Commissioner was held to be barred by res-judicata, vide order dated 17.08.2022.

5.2 This Court also, vide order dated 12.08.2024 (Annexure P-14), had observed that sanad takseem has been upheld by learned Financial Commissioner in ROR-266-2019, which has attained finality and sanad takseem stands reflected in revenue records, vide mutation No. 2545.

6. Even an intra court appeal (LPA-2167-2025), filed by the petitioners against above extracted order dated 12.08.2024 (Annexure P-14), has been withdrawn by the petitioners, vide order dated 15.01.2025 (Annexure P-15) and now the instant civil writ petition

has been filed by the petitioners, challenging the order dated 04.08.2021 (Annexure P-11), passed in earlier revision petition (ROR-266-2019), which has already attained finality, as was observed vide order dated 12.08.2024 (Annexure P-14), passed in CWP-21253-2022.

7. Once, in the earlier round of litigation, this Court, vide order dated 12.08.2024 (Annexure P-14), passed in CWP-21253-2022, has already held that the sanad takseem dated 09.07.2018, has already attained finality, there is no scope for any interference in these proceedings.

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

08.07.2025
sjks

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