

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

CWP-7831-2025

Date of Decision: 05.04.2025

Kamal Parkash

..... Petitioner

Versus

Ram Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Harsh Mehla, Advocate
for the petitioner.

Mr. Sandeep S.Mann, Addl. A.G., Haryana.

HARSH BUNGER J. (ORAL)

Petitioner (Kamal Parkash) has filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 16.04.2024 (Annexure P-4) passed by the learned Assistant Collector, 2nd Grade, Radaur, District Yamuna Nagar, whereby Mode of Partition was approved.

1.1 A further prayer has been made for setting aside order dated 05.11.2024 (Annexure P-6) passed by the learned Collector, Radaur, whereby, an appeal filed by the petitioner against the sanctioned Mode of Partition dated 16.04.2024 (Annexure P-4) has been dismissed.

2. Briefly, respondent No.1 (Ram Kumar) filed an application seeking partition of the joint land measuring 64 Kanal-6 marla, situated at Village Rattangarh, Tehsil Jagadhari, District Yamuna Nagar.

2.1 In the said partition proceedings, the Mode of Partition was proposed, which subsequently came to be sanctioned by the learned Assistant Collector, 2nd Grade, Radaur, District Yamuna Nagar, vide order dated 16.04.2024 (Annexure P-4).

2.2 Feeling aggrieved against the aforesaid order dated 16.04.2024 (Annexure P-4), petitioner filed an appeal before the learned Collector, Radaur, which was dismissed vide order dated 05.11.2024 (Annexure P-6).

3. In the aforementioned circumstances, the present writ petition has been filed before this Court, seeking relief(s) as noticed hereinabove.

4. Learned counsel for the petitioner submits that the revenue authorities below have erred in law and fact in passing the impugned order(s). It is submitted that some of the area of land under partition is *gair mumkin*, however, no provision has been made in that regard.

5. Heard.

6. Here it would be gainful to refer to Mode of Partition dated 16.04.2024 (Annexure P-4); which reads as under:-

“Mode of Partition of land measuring 64 Kanal 6 Marle Village Rattangarh, Hadbast No.487

1. The partition of the land in question will be done by protecting the possession as it is. If need arise then the partition will be done after removing the possession.

2. The Kurra of the applicant will be made separate and the separate kurras of the defendants will be made adjoining to each other.

3. In the disputed land, there is a tubewell constructed by any party will be given to that party and if there is any mutual tubewell then its value be estimated.

4. If during partition, the tree will go to share of one or another then its value will be estimated.

5. During the partition, the land which is Gair Mumkin will

not be involved in the partition, after leaving that land only chahi land will be partitioned.

6. During partition, it is not necessary to make a passage for the disputed land because the land is already adjoining to the road. If as per law, there arises any need to do so then three gaththe broad passage will be made.

For preparing the partition map, the fees of Halka Kanungo is fixed as Rs.1000/-.”

7. A perusal of the above extracted Mode of Partition (Annexure P-4) clearly shows that as per Clause 5 thereof, specific provision has been made for excluding *gair mumkin* area from the land under partition.

8. Since sufficient provisions have been made by the learned Assistant Collector, 2nd Grade, Radaur, District Yamuna Nagar, vide the Mode of Partition (Annexure P-4), which clearly addresses the aforesaid submissions made by learned counsel for the petitioner; I do not find any merit in the instant writ petition and the same is accordingly dismissed.

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

05.04.2025

Apurva

**(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No