

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

**CWP-7722-2025 (O&M)
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)

CM-5149-CWP-2025:

Prayer in the present application is for placing on record the image of file cover of the partition case of Village Dhaulra, pending before the Assistant Collector, 2nd Grade, Radaur, District Yamuna Nagar, as Annexure P-7.

For the reasons mentioned in the application, the image of file cover (Annexure P-7) of the partition case of Village Dhaulra, pending before the Assistant Collector, 2nd Grade, Radaur, District Yamuna Nagar, is taken on record, subject to all just exceptions.

Application is accordingly disposed of.

CWP-7722-2025:

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 38 Kanal-0 marla, situated at Village Dhaulara, Tehsil Radaur, 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 high tension wires pass through a part of the land under partition, however, no provision has been made as regards the proportionate distribution of the said area amongst the co-sharers. Learned

counsel further submits that some of the area of land under partition is *gair mumkin*, however, no provision has been made in that regard, as well.

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 38 Kanal 0 Marle Village Dhaura, Hadbast No.47

1. The partition of the land in question will be done by disturbing 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, its value be estimated.

4. During partition the value of trees present on the disputed land will be estimated.

5. During the partition, the land which is found Gair Mumkin will not be involved in the partition. The rest of chahi land will be partitioned after removing the possession and good out of good and bad out of bad land will be distributed to each kurra as per their share.

6. During partition, it three gaththe broad passage will be made in the land in question.

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 and further, provision has also been made for distributing the land as per its kind/nature and value by providing that good land would be distributed out of the good land and bad land would be distributed out of the bad land.

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