**IN THE COURT OF V.K.SINGH, I.A.S. FINANCIAL COMISSIONER PUNJAB**

**CHANDIGARH**

R.O.R . No. 48-49 of 2010

Date of Institution: 30.8.2010

**Date of Decision: 30.11.2015**

Suresh Kumar so mod Sh. Surjan Singh, resident of Village Bhagsi Tehsil Dera Bassi, Distt. Mohali. **---------------- Petitioner**

**VERSUS**

1. Sohan Singh
2. Gurnam Singh
3. Tarsem Lal
4. Gurmit Singh sons of Prem Singh,
5. Mohan Singh
6. Mahinder Singh sons of Sh. Sarup Singh
7. Ram Kumar
8. Sahib Singhsons of Surjan Singh,

Residents of Village Bhagsi, Tehsil Dera Bassi, Distt. SAS Nagar

----------------- **Respondents**

**In the Court of Sh. Sohan Lal Bhumak, P.C.S. Collector, Sub, Division,**

**District SAS Nagar.**

File no.5/ Appeal dated 1.10.2007 **Decision: 15.10.2007**

Suresh Kumar son of Sh. Surjan Singh, resident of Village Bhagsi Tehsil Dera Bassi, Distt. Mohali. **----------------Appellant**

**VERSUS**

1. Sohan Singh
2. Gurnam Singh
3. Tarsem Lal
4. Gurmit Singh sons of Prem Singh,
5. Mohan Singh
6. Mahinder Singh sons of Sh. Sarup Singh
7. Puran Singh son of Munshi
8. Lachman son of Rachna through his L.R.s
9. Mam Chand
10. Sardara Ram
11. Sant Ram sons Lachman son of Rachana
12. Sunehri daughter of Lachman
13. Chalti Devi widow of Lachman
14. Jyoti Ram
15. Isher Dass sons of Rachna ram
16. Pawan Kumar
17. Chaman Lal
18. Mohan Lal
19. Krishan Lal
20. Gurdit sons of FakirChand
21. Ashok Kumar
22. Yogeshwar
23. Vijay Pal
24. Om Bhuraj
25. Ajay Pal sons of Om Parkash
26. Teja Ram
27. Laja Ram
28. Jaswant Singh sons of Nurata

Residents of Village Bhagsi, Tehsil Dera Bassi, Distt. SAS Nagar

**----------------------------- Respondents**

1. Ram Kumar
2. Sahib Singh sons of Surjan Singh Residents of Village Bhagsi, Tehsil Dera Bassi, Distt. SAS Nagar

**---------------------------- Performa** **Respondents**

**Present :- Sh. Y.S.Turka , Advocate, Counsel for the Petitioner.**

**Sh. Maharaj Kumar, Advocate , Counsel for the Respondents**

**ORDER:**

These are three interconnected revision petitions have been filled by under Section 16 of the Punjab Land Revenue Act, 1887 against the order dated 21.4.2010 passed by the Divisional Commissioner, Patiala Division, Patiala.

2. Brief facts of this case are that respondents filed an application for partition of land measuring 58 Bighas 16 Biswas situated in village Bhagsi, Tehsil Derabassi and District Mohali, Assistant Collector Grade-1st passed the Naksha “Irri” vide order dated 21.5.2007.

3. Aggrieved from the above orders, petitioners filed an appeal before SDM-cum- Collector, Derabassi on the ground no opportunity of being head is given to him an moreover the possession of the parties is according to the partition already done. SDM-cum-Collector Derabassi vide order dated 15.10.2007 accepted the appeal.

4. Aggrived from this order, respondents filed appeals before Divisional Commissioner, Patiala Division, Patiala on the grounds that Sanad Taksim has been issued in this case. Commissioner Patiala Division, Patiala vide order dated 21.4.2010 accepted the appeals on the basis of that since the Sanad Taksim has been issued hence it is beyond the jurisdiction of this court. Hence the present revision petitions.

5. Arguments of Counsel of both parties were heard . The respondents claimed that the petitioner were aware of the partition proceeding and deliberately stayed away during entire process. Even after order of Commissioner every body except him has accepted the order and nobody has agitated the matter . He further said that service was duly affected and petitioner has never claimed that there was any defect in service.

6. Where as the petitioners counsel claimed that Commissioner has accepted the appeal only on technical ground and has claim has not been rejected .

7. After hearing the arguments and perusing the record it appears that deliberately the petitioner remained away from proceeding to take the alibi later. In this situation, revenue officer has followed due process and proceeded with the partition process. There is no merit in this claim of petitioner and his appeal is hereby dismissed.

**Announced**

**Chandigarh, Dated ( V.K. Singh)**

**30th November, 2015 Finance Commissioner, Punjab,**

**Chandigarh.**

**IN THE COURT OF GURINDER SINGH GRAWAL,I.A.S. DIVISIONAL COMOSSIONER,**

**PATIALA DIVISION. PATIALA**

DISTRIVT : S.A.S. NAGAR

CASE No. : RA-2/4. Of 2008

Date of institution: 5.12.2007

**Date of Decision : 21.4.2010**

1. **Sohan Singh**
2. Gurnam Singh
3. Tarsem Lal
4. Gurmit Singh sons of Prem Singh son of Badama , all residents of Village Bhagsi Tehsil Dera Bassi, Distt. Mohali.

**-------------------------- Appellants**

**VERSUS**

1. **Suresh Kumar**
2. Ram Kumar
3. Sahib Singh sons of Surjan Singh, residents of Village Bhagsi Tehsil Dera Bassi, Distt. SAS Nagar
4. Mohan Singh
5. Mohinder Singh sons od Saroop Singh , residents of Village Bhagsi Tehsil Dera Bassi, Distt. Mohali. ----------------------- **Respondents**

**Case no. RA-3/2008**

1. Suresh Kumar
2. Ram Kumar
3. Sahib Singh sons of Surjan Singh, residents of Village Bhagsi Tehsil Dera Bassi, Distt. SAS Nagar.

4. Mohan Singh

5. Mohinder Singh sons of Sh. Sarup Singh residents of Village Bhagsi Tehsil Dera Bassi, Distt. SAS Nagar.

6. Puran Singh son of Munshi

7. Lachman son of Rachna through his L.Rs

a) Mam Chand

b) Sardara Ram

c) Sant Ram , sons

d) Sunehri daughter

e) ChaltiDevi widow

8. Jyoti Ram

1. Isher Dass sons of Rachna Ram
2. Pawan Kumar
3. Chaman Lal
4. Mohan Lal
5. Krishan Lal
6. Gurdit sons of FakirChand
7. Ashok Kumar
8. Yogeshwar
9. Vijay Pal
10. Om Bhuraj
11. Ajay Pal sons of Om Parkash
12. Teja Ram son of Nurata
13. Laja Ram
14. Jaswant Singh sons of Nurata

All residents of Village Bhagsi, Tehsil Dera Bassi, Distt. SAS Nagar

**---------------------------- Respondents**

**Present :- Sh. Manmohan Singh, Advocate, for the Appellants .**

**Sh. H.S, Saini Advocate , for the Respondent no. 1.**

**ORDER :-**

These three appeals filed under section 13 of the Punjab Land Revenue Act,1887 against the order dated 15.10.2007 passed by Collector Sub Division , Dera Bassi in a partition case of village Bhagsi, Tehsil Dera Bassi , District S.A.S Nagar. Since the parties and issues involved in all the three cases is same, all these cases are being disposed of by a single order of mine.

2. After summoning the respondents and record , all the cases ware fixed for arguments . The counsel for appellants has reiterated the grounds of appeal by pleading that the appellants had filed four partition applications against the respondents. The respondent no.1 Suresh Kumar appeared in person in all partition applications and signed the Zimny order date 10.12.2002 and for remaining respondents, mushtri munadi was done but none had appeared on behalf of remaining respondents in spite of that . Later on , the respondent no.1 also did not appear before A.C. 1st Grade for reasons best known to him. The lower court called Naksha “ Urra” and after that the ‘Mode of Partition’ was also prepared and then called Naksha “Arra” and the same was accepted by A.C. 1st Grade ,Dera Bassi . After passing Naksha “ Arra’ the brother of respondent no.1 Ram Kumar and Sahib Singh challenged all the orders dated 25.4.2003, 21.3.2003 and 10.2.2003 of all partition proceedings passed by A.C. 1st Grade , Dera Bassi on the grounds of private partition effected between the parties but these appeals were rejected by the Collectors, Sub Division Dera Bassi. In those appeals the respondent no.1 was imp leaded as a respondent but intentionally he had not appeared in spite of proper remedy adopted by the Collector for service of the parties. After dismissal of the appeals, the respondent no.2 and 3 filed revisions before Commissioner, Patiala and the F.C.R. but the same ware also rejected . Moreover “ Sanad Taksim” has been issued in all the four cases and in one case ‘ Warrant of Possession’ has already been executed and possession has been delivered and mutation has been sanctioned as per “Sanad Taksim” . The Collector has wrongly set aside the order of A.C. 1st Grade without any reason and re-opened the case . Thus , it has been pleaded to accept the appeal and set-aside the order in question.

3. The counsel for the respondent no. 1 has rebutted these arguments by pleading that A.C. 1st Grade started partition proceeding without serving any notice and the signature of respondent no.1 were impersonated by some other person . The A.C. 1st grade has wrongly proceeded ex-parte against respondent no.1 and passed the entire orders at the back of respondent no.1 . The appellants misguided the A.C. 1st grade , Dera Bassi that the property is joint where as the land in dispute has already been partitioned between the parties as per possession and a written deed was prepared by the Gram Panchayat and relatives of the parties in this regard. The parties had made the land cultivable by spending huge amounts from their pocket and there are permanent Tubewels of the parties in the land in dispute . If the partition is affected as per the said partition , then the land of the parties shall be fragmented in small pieces. The Collector has rightly remanded the case to A.C. 1st grade ,Dera Bassi and pleaded to reject the appeal.

4. I have heard both the counsels and have also gone through the record of lower Courts. In this case the respondent no.1 is pleading that the A.C.1st grade had finalized the partition proceedings without summoning the respondents of partition application where as the appellants are pleading that Mustri Munadi was done for serving the respondents but they failed to appear and were rightly proceeded ex-parte. The respondent no.1 had appeared personally on 16.12.2002 but later on , he intentionally absented himself from the partition proceedings and he is now wrongly raising the issue that the partition proceedings have been finalized at his back. In my opinion, the Collector has wrongly remanded the case for re-opening of the partition proceedings , as perusal of the record shows that the respondent no.1 was fully aware of partition proceedings pending before A.C.1st grade as the Zimny order dated 16.12.2002 clearly shows that there are signatures of respondent no.1, Secondly “Sanad Taksim” in all the three cases has already been issued and it is well settled law that once “Sanad Taksim” is issued further adjudication is beyond the purview of this court, remedy lies only before the Financial Commissioner or the Hon,ble High Court as decided by the Hon.ble High Court of Punjab and Haryana in its judgment cited as 2010 (2) RCR (Civil) -263 . Thus all three appeals filed in this case are hereby accepted and orders dated 15.10.2007 passed by the Collector Sub Division, Dera- Bassi are set-aside and the partition proceedings finalized by A.C.1st Grade are upheld . If the respondent no.1 has any grievance regarding approved partition, he can file the revision before the competent court of FCR, Punjab, Chandigarh or Punjab and Haryana High Court.

**ANNOUNCED Divisional Commissioner,**

**21. 4. 2010 Patiala Division, Patiala.**