

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

CWP No.20907 of 2008

Date of Decision:-28.07.2015

Dharam Pal

.....Petitioner.

Versus

Financial Commissioner, Haryana & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. P.R. Yadav, Advocate for the Petitioner.

Mr. Vikas Malik, DAG Haryana for respondent nos.1 to 4.

Mr. A.K. Singh Goyat, Advocate for respondent nos.6 & 8.

Mr. N.D. Achint, Advocate for respondent nos.20 to 23.

JASWANT SINGH, J.(ORAL)

Prayer in the present petition is for quashing of the order dated 3.7.2003 (P-5) passed by Commissioner, Gurgaon, Division Gurgaon as well as the orders dated 3.09.2003 (P-6), 17.12.2003 (P-7) and 16.02.2004 (P-8) passed by Assistant Collector IInd Grade Sohna along with order dated 30.06.2006 (P-9) passed by District Collector, Gurgaon, order dated 4.10.2007 (P-12) passed by Commissioner Gurgaon, Division Gurgaon and order dated 08.01.2008 (P-13) passed by Financial Commissioner, Haryana.

The dispute is amongst the two brothers wherein an application for partition of the land of these two brothers was allowed by the Authorities below and the grievance of the petitioner herein is to the effect

that in the mode of partition path has been provided which passes through the house constructed by the petitioner and, therefore, the orders passed by the Authorities below are liable to be set aside.

On various dates this Court had called for, in total three reports from the authorities concerned so as to determine the factual position. Today also, the petitioner as well as his brother who is respondent herein were present in person and on a pointed query on whether there exists a *pucca* house of the petitioner in the adjoining land comprised in rectangle no.63//9/2/1, he has answered that there indeed exists *pucca* house. As per the reports of the Authorities, the alleged house which would come in the way of path as sanctioned by the Assistant Collector IInd Grade is only a *Chappar*/Structure which is temporary in nature. Therefore, the assertion of the petitioner that the house that would come in the way of path is the only house of the petitioner falls to the ground being factually incorrect and a misstatement in Court. However, counsel for the private respondents on instructions from his clients states that for the demolition of the structure/*Chappar* as noticed in the reports existing in the rasta to be carved out Sukhbir Singh would pay the compensation qua such structure as assessed by the Court.

After hearing learned Counsel for the petitioners, this Court is of the opinion that the petition is without any merits and same deserves to be dismissed. However, on the graceful concession given by the counsel for the respondent-Sukhbir Singh, the Tehsildar concerned is directed to assess the value of the *Chappar*/Structure and after such assessment is made within a period of 4 weeks from the receipt of the certified copy of this order, the respondent-Sukhbir Singh would pay the said compensation to the

petitioner within a further period of four weeks of such assessment of compensation.

In view of the above, the present writ petition is hereby dismissed in the above terms.

**(JASWANT SINGH)
JUDGE**

July 28, 2015
Vinay