

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

C.W.P. No. 24971 of 2014 (O&M)
Date of Decision: January 28, 2015

Mohini Saini

... Petitioner

Versus

Financial Commissioner Appeals, Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: Mr. R.S. Chauhan, Advocate,
for the petitioner.

Paramjeet Singh, J. (Oral)

CM-914-CWP of 2015

This is an application filed under Order 9 Rule 9 read with Section 151 CPC for restoration of C.W.P. No. 24971 of 2014.

Having heard learned counsel for the petitioner and for the reasons recorded in the Civil Misc. application, same is allowed. Civil Writ Petition is restored to its original number and heard today itself.

CWP No. 24971 of 2014

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of order dated 18.09.2014 (Annexure P/5) passed by respondent no.1 – Financial Commissioner, Appeals, Punjab, order dated

27.11.2013 (Annexure P/3) passed by respondent no.2 – Commissioner, Jalandhar Division, Jalandhar, order dated 07.06.2011 (Annexure P/2) passed by respondent no.3 – Sub Divisional Magistrate-cum-Collector, Pathankot and order dated 23.12.2010 (Annexure P/1) passed by respondent No.4 – Assistant Collector Ist Grade, Pathankot.

Brief facts of the case are that respondent no.5 filed an application for partition of land measuring 225 kanals 1 marla, situated in the revenue estate of Village Sharif Chak, Tehsil and District Pathankot. After following the procedure, Naksha *Alf* was called. Thereafter, mode of partition was sanctioned vide order dated 23.12.2010 (Annexure P/1). Against the order (Annexure P/1), petitioner preferred an appeal which has been dismissed vide order dated 07.06.2011 (Annexure P/2) by the Sub Divisional Magistrate-cum-Collector. Thereafter, the petitioner preferred a revision petition which has also been dismissed by the Commissioner, Jalandhar Division, Jalandhar vide order dated 27.11.2013 (Annexure P/3). Against that, petitioner filed an ROR before the Financial Commissioner, which has also been dismissed vide order dated 18.09.2014 (Annexure P/5). Hence, this writ petition.

I have heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner contends that the petitioner

is specifically aggrieved against clause no.2 of mode of partition dated 23.12.2010 (Annexure P/1), which reads as under:-

“2. The partition would be effected maintaining the possession and keeping in view the nature and the rules of consolidation. The deficiency would be made good after disturbing the possession.”

Petitioner is specifically aggrieved against the later part of clause 2 with regard to disturbing the possession.

I have considered the contention raised by learned counsel for the petitioner.

Perusal of clause 2 of the mode of partition indicates that this is a general clause and possession is to be disturbed keeping in view the nature, quality, nearness to the road and the village abadi. As the proportionate shares are to be given as per shares of the respective co-sharers, I do not find any illegality in incorporating the said clause in the mode of partition.

Another prayer made by learned counsel for the petitioner that petitioner is also wants that her tak should be separated. In this regard, the petitioner can make an appropriate application to the Assistant Collector First Grade.

Initially, learned counsel for the petitioner also raised an

argument with respect to the order of Financial Commissioner whereby he has declined to entertain the revision. However, at this stage, he does not press the same.

With the above observations, instant writ petition is dismissed.

January 28, 2015
vkd

[Paramjeet Singh]
Judge