

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

CWP No.4265 of 2015
Date of Decision:-25.08.2015

Sita and others

..... Petitioners

Vs.

Financial Commissioner and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: - Mr.Gulam Nabi Malik, Advocate,
for the petitioners.

RAKESH KUMAR JAIN, J. (ORAL)

One Labhu Singh was the owner of 55 bighas of land. He had four sons namely, Sita, Meeta, Nehla and Jally. Labhu Singh suffered a consent decree in favour of Jally and Meeta to the extent of 30 bighas of land out of 55 bighas. Jally filed the petition for partition of the 25 bigah of land which was *ex parte* decided in his favour, but the said partition was challenged by Sita and Nehla by way of a civil suit. In the partition proceedings, the petitioners had raised question of title by way of an application filed under Section 116 of the Punjab Land Revenue Act, 1887 [for short 'the Act'] which was dismissed on 9.6.2000 on the ground that the question of title is not involved as the fact of partition of land is not reflected as per Section 123 of the Act because the land is being shown consistently in the revenue record as joint. The said order is upheld upto the Financial Commissioner.

Learned counsel for the petitioners has argued that the land has already been partitioned as per the decree dated 2.12.1977 passed by the Sub Judge, Ist Division, Malerkotla.

I am not impressed with the arguments raised by learned counsel for the petitioners because at that time, the suit was filed for declaration by Jally and Meeta on the ground that they have become the owner of 30 bighas of land out of 55 bighas purchased by their father on the basis of a family settlement. It was only a case of family settlement which was never challenged by the present petitioners therefore, the said decree has attained finality. The remaining 25 bighas of land is in joint possession of the parties about which there is no evidence brought on record in regard to partition.

Hence, in view of the aforesaid facts and circumstances, I do not find any merit in the present petition and the same is hereby dismissed.

25.08.2015

Vivek

**(RAKESH KUMAR JAIN)
JUDGE**