

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

CWP No.5825 of 2015

Date of Decision:-30.03.2015

Bhale Ram & Ors.

.....Petitioners.

Versus

State of Haryana & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Manvinder Dalal, Advocate for the Petitioners.

JASWANT SINGH, J. (ORAL)

Challenge in the present petition is to the order dated 27.01.2015 (P-8) passed by the learned Financial Commissioner, Haryana (respondent no.1) who has accepted the revision petition filed by respondent no.5 Smt. Karmo @ Dhan Kaur and ordered the continuation of the partition proceedings under Section 117 of the Punjab Land Revenue Act, 1887.

The precise grievance of the petitioner in the present case is that if a question of title has arisen which is pending adjudication before a Civil Court then the continuation of partition proceedings, as ordered by the Financial Commissioner is not sustainable in the eyes of law and as per the petitioner, the only option available with the Financial Commissioner was to stay the proceedings till the Civil Court judgement attains finality.

After hearing learned Counsel for the petitioners and perusing the paper book, this Court is of the considered view that the present petition

is devoid of any merit and the same deserves to be dismissed.

A perusal of the impugned order shows that the learned Financial Commissioner has taken into consideration all the relevant facts of the present case and has rightly come to a conclusion that the partition proceedings, in the facts and circumstances of the present case, cannot be stayed. It is apparent that Smt. Karmo @ Dhan Kaur (respondent no.5) has been shown as owner of land to the extent of 10 Kanals 15 marlas, on the basis of registered sale deed executed in her favour by a co-sharer. This fact is further corroborated from “*Naksha Alif*”, wherein she has been shown as owner in possession of 10 Kanal 15 Marlas. Thus prima facie, it is apparent that the respondent no.5 has a valid document to title in her favour to press for the partition proceedings. The Revenue Authorities, while exercising powers under the Punjab Land Revenue Act, 1887 are required to only look into the prima facie case, as to whether a question of title is involved or not. If it is apparent from the face of the record that no serious question of title is involved, then the authorities concerned are well within their right to proceed with the partition proceedings and if, subsequently there is a judgment of the Civil Court to the contrary, then the said judgment of the Civil Court would be given effect by the Revenue Authorities as per the decree passed. Even the learned Financial Commissioner, while disposing of the revision petition has ordered that “possession of the present incumbents was not to be disturbed if there is any stay or orders to the contrary by the Civil Court I.e. the possession in accordance with *Sanad Taksim* will be given to the land owners only if there is no order to the contrary by the Civil Court.”

Thus impugned order does not, in the opinion of this Court,

suffers from any illegality or infirmity which would warrant any interference in the impugned order dated 27.01.2015.

In view of the above, finding no merit in the present writ petition the same is hereby dismissed.

**(JASWANT SINGH)
JUDGE**

March 30, 2015
Vinay