

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

L.P.A No. 1009 of 2015 (O&M)

Date of Decision: August 06, 2015

Chatter Singh

...Appellant

Versus

State of Punjab and others

....Respondents

**CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU**

Present: Mr. Ravinder Malik, Advocate,
for Mr. R.S. Manhas, Advocate,
for the appellant.

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SATISH KUMAR MITTAL, J.

Chatter Singh has filed this intra-court appeal under Clause X of the Letters Patent against the order dated 28.03.2014 passed by the learned Single Judge, whereby the writ petition filed by the appellant challenging the order dated 27.1.2010 passed by the Financial Commissioner, Punjab, in a partition matter, has been dismissed.

Though this appeal is barred by limitation, and along with the appeal, the appellant has filed an application (CM No.2105-LPA of 2015) for condonation of 439 days delay in filing the appeal, yet without taking the said delay into consideration, we have heard the learned counsel for the appellant on merits and gone through the impugned order passed by the learned Single Judge as well as the various orders passed by the revenue

authorities.

In this case, respondent No.5 Chhajju Ram filed an application for partition of land measuring 16 kanals before the Assistant Collector Ist Grade, Mukerian. After notice to all the co-sharers and hearing them the mode of partition was prepared and finally the partition was effected by the Assistant Collector Ist Grade vide order dated 16.1.2001. The said order was challenged by Roshan Lal (respondent No.6) and Chatter Singh (appellant herein) before the Collector who vide his order dated 30.7.2001 (Annexure P-3) remanded the case to Assistant Collector Ist Grade with the direction that partition be made by amending clause No.5 of the mode of partition. After the remand, the mode of partition was amended. None of the parties filed any objection to the amended mode of partition. Thereafter the partition was effected in terms of the agreed mode of partition. But in appeal the Collector set aside the said partition order and again remanded the matter back to the Assistant Collector Ist Grade with the direction that passage of 2 karams was not required, which was one of the condition of mode of partition.

The said order was challenged by Chhajju Ram (respondent herein) before the Commissioner by filing an appeal. The said appeal was dismissed vide order dated 11.5.2006 (Annexure P-7). However, on revision filed by the said respondent, the Financial Commissioner set aside the order of the Collector vide order dated 27.01.2010, while observing as under:-

“I have heard the arguments of the counsels for both the parties and gone through the record of the case minutely. The A.C. 1st Grade after remand from the Collector had

made final partition on the basis of final Mode of Partition dated 30.7.2001. The same was never challenged by any of the parties and the same was framed with the consent of the parties. Now when the partition has attained finality, I see no reason to intervene at this stage. The remand order of the Collector and order of the Commissioner are set aside and order dated 15.9.2004 of the A.C. 1st Grade is upheld. Accordingly, the revision petition is accepted.”

The appellant challenged the said order by filing the aforesaid writ petition before this Court which has been dismissed by the learned Single Judge vide order dated 28.3.2014. Hence this Letters Patent Appeal has been filed.

The learned Financial Commissioner as well as learned Single Judge have come to the conclusion that in the present case the Collector has gone wrong while setting aside the order of partition passed by the Assistant Collector Ist Grade and remanding the matter once again directing the Assistant Collector Ist Grade to decide the matter afresh with the direction to prepare separate *kurrah* of Government land and partition the disputed land by keeping the possession of the parties intact. Keeping in view the fact that once mode of partition became final as none of the parties had filed any objection against the same or challenged the same by filing an appeal or revision, and when the partition was effected in consonance of the consented mode of partition, the Collector was not justified in remanding the matter afresh after setting aside the order of partition passed by the Assistant Collector Ist Grade.

Before us also, it has not been disputed that after the first

remand the mode of partition was amended, and the same became final as none of the parties had filed any objection to the amended mode of partition. It is also not disputed that the final order of partition was done by the Assistant Collector Ist Grade as per the amended mode of partition. In that situation, there was no justification for the Collector to set aside the order of final partition and remanding the matter again to the Assistant Collector Ist Grade with the direction to prepare separate *kurrah* of Government land and to partition the disputed land by keeping the possession of the parties intact. The second remand was not justified at all. It has only been done unnecessarily just to prolong and delay the partition proceedings. The matter remained pending before the different revenue authorities on one pretext or the other. Thus, in our opinion the learned Single Judge as well as Financial Commissioner have rightly come to the conclusion that in the present case no further remand of the matter was justified, particularly when after the first remand, the Assistant Collector Ist Grade had partitioned the land on the basis of final mode of partition which was agreed by both the parties. We do not find any illegality or infirmity in the order passed by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

August 06, 2015
vkg

(HARINDER SINGH SIDHU)
JUDGE