

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

LPA No.1557 of 2014 (O&M)

Date of Decision: 23.03.2015

Charanjit Singh & Ors.

... Appellants

VS.

FC (Revenue) Punjab & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE P.B. BAJANTHRI

Present: Ms. Malkiat Mann, Advocate for the appellants

Mr. Aman Bahri, Addl. AG Punjab

Mr. Sherry Singla, Advocate for respondents

No.10,11,13,14 & 37

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal impugns the order dated 05.05.2014 whereby learned Single Judge has dismissed the appellant's writ petition challenging the order passed by the Financial Commissioner, Revenue, Punjab dated 06.08.2013. The said order was passed in partition proceedings pending between the appellants and private respondents where the only bone of contention still left to be resolved is the location of passage for access to the land which has fallen to the share of appellants.

(2) Learned Single Judge has dismissed the appellant's writ petition after reproducing the operative part of the order of Financial Commissioner, Revenue with a further observation that the partition proceedings have since culminated hence the issue cannot be permitted to be re-agitated. The Financial

Commissioner, on the other hand, did acknowledge the issue of alignment of the passage but declined to go into such question on the premise that the Collector and Commissioner have followed the *Naksha 'Bey'* as was proposed earlier.

(3) When this appeal came up for hearing on November 4, 2014, the following order was passed:-

“The appellants have placed on record the site-plan (Annexure A-1) depicting the location of their village, main road as well as the land-holdings of the appellants, Tej Kaur and her family as well as of Sukhjit Singh. It is stated at Bar that if the appellants are given passage out of Khasra Nos.14/3 and 15 shown in red colour in the site plan, they will persuade Sukhjit Singh to give equivalent land to Smt.Tej Kaur and her family out of Khasra Nos.19/3 and 22/2. The appellants will then compensate Sukhjit Singh by giving equivalent land out of their khasra No.10/2 which adjoins Khasra No.10/1 owned by Sukhjit Singh. This would enable the appellants to have direct connectivity from main road of the village.

Notice of motion to Tej Kaur and Sukhjit Singh (respondent Nos.13 & 14) only at this stage, for 04.12.2014.

Notice re: condonation of delay as well.”

(4) The efforts have been made thereafter to persuade the private respondents to agree for the re-alignment of the passage as per the site plan (Annexure A1) as it would be prejudicial to

none and the area of landholdings of private respondents would also remain intact. Due to obstinate attitude of one of the private respondents, the proposal has not materialized.

(5) We have, therefore, heard learned counsel for the parties and gone through the record.

(6) It deserves mention at the outset that the appellants are neither re-agitating the allocation of their share in the joint land nor they have questioned the allotment of private respondents on the grounds like superior quality of land etc. In other words, substantial part of the partition proceedings has attained finality and calls for no interference.

(7) The only claim that survives is the appellant's access to their land by re-aligning the passage in such a manner that it does not reduce their total area or cause any type of loss to the private respondents, on the other hand, the passage can be more useful to the appellants at their own cost, namely, the land for such passage will have to be contributed by them only. We see no reason or justification for the Financial Commissioner, Revenue in not going into such a question merely because the partition proceedings have been carried out as per *Naksha 'Bey'*. The intervention of the authorities would be, in these circumstances, fully justified so as to ensure more convenient access to the appellants for their land, for which they alone shall contribute by

way of exchange. However, the final decision in this regard, has to be left to the authorities only.

(8) For the reasons afore-stated, we set aside the order dated 05.05.2014 of the learned Single Judge and allow the appellant's writ petition modifying the order of Financial Commissioner, Revenue, Punjab to the extent it pertains to adjudication of the passage dispute. While there shall be no interference in the respective land-holdings of the parties, the question of alignment shall be gone into by the Financial Commissioner, Revenue, Punjab as per the site plan (Annexure A1).

(9) The parties shall appear before the Financial Commissioner, Revenue, Punjab on 26.05.2015.

(10) The needful shall be done within a period of four months from the date of appearance of the parties.

(Surya Kant)
Judge

23.03.2015
vishal shonkar

(P.B. Bajanthri)
Judge