

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**L.P.A.No.1450 of 2015 (O&M)
Date of Order: 05.10.2015**

Gurdial Singh

..Appellant

Versus

**Financial Commissioner, Co-operation, Punjab, Chandigarh and
others.**

..Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MS. JUSTICE REKHA MITTAL**

**Present: Mr. Sunil Agnihotri, Advocate,
for the appellant.**

**RAJIVE BHALLA, J (Oral)
C.M.No.3107-LPA of 2015**

Prayer in this application is to condone delay of 169 days
in filing the appeal.

We have heard counsel for the appellant and as sufficient
cause has been shown, allow the application and condone the delay
of 169 days in filing the appeal.

L.P.A.No.1450 of 2015

The appellant, challenges order dated 04.11.2014,
dismissing his writ petition, order dated 24.03.2015, dismissing an
application for re-calling the aforesaid order and orders passed by
the revenue authorities, directing partition of the land, in dispute.

Counsel for the appellant submits that the appellant, filed
an application for partition of the joint khewat. The appellant
asserted before the Assistant Collector Ist Grade, that land be
partitioned, in accordance with a family/private partition but the
Assistant Collector ordered partition without considering the

family/private partition. The appeal and revision, filed before the Collector and the Commissioner, have been dismissed on irrelevant considerations, without considering the family/private partition. The writ petition has been dismissed after a perfunctory appraisal of the facts and without examining that in the case of a family partition, a revenue officer is bound by the will of the parties.

We have heard counsel for the parties, perused the impugned orders but are not inclined to grant any relief to the appellant.

A perusal of orders passed by the Assistant Collector 1st Grade, the Collector and the Commissioner, reveal that in his application for partition, the appellant did not plead a family/private partition. Though, it is true that in case of a private/family partition, a revenue officer is required to partition the land, in accordance with the wish of the parties, but in this case, as recorded in the order passed by the Collector, Bolath, District Kapurthala, and the other authorities, the appellant did not invoke the so called settlement, in his application for partition. Even otherwise, the so called agreement/settlement was not signed by all co-sharers, as recorded by the Collector. Consequently, in the absence of any error of jurisdiction or of law, the writ petition was rightly dismissed.

Finding no merit, the appeal is dismissed.

(RAJIVE BHALLA)
JUDGE

October 05, 2015

(REKHA MITTAL)
JUDGE