

**CWP-16513-2008**

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

**CWP-16513-2008**

**Date of Decision: 05.04.2016**

Mohan Singh (since deceased) through his LR's and others

... Petitioner(s)

Versus

The Financial Commissioner (Appeals), Punjab and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH  
DHALIWAL**

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Krishan Saini, Advocate,  
for the petitioner.

Mr. B.M.Vinayak, DAG, Punjab.

Mr. Atul Nehra, Advocate,  
for respondent Nos.7, 8 to 14, 16, 22 and 23.

Mr. Sachin Jain, Advocate,  
for respondent No.30.

**Paramjeet Singh Dhaliwal, J. (Oral)**

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari thereby quashing the order dated 19.03.2008 (Annexure P-8) passed by respondent No.1-Financial Commissioner (Appeals), Punjab whereby revision petition filed by the petitioner has been dismissed and

**CWP-16513-2008**

the order dated 13.11.2003 (Annexure P-5) passed by respondent No.4-Assistant Collector Ist Grade, Nakodar whereby framing of fresh mode of partition has been ordered.

Brief facts of the case are to the effect that petitioner-Mohan Singh filed application before respondent No.4-Assistant Collector Ist Grade for partition of land measuring 108 kanals 7 marlas, situated within the revenue estate of village Mallian Kalan, Tehsil Nakodar, District Jalandhar. After taking into consideration the pleadings of the parties, respondent No.4-Assistant Collector Ist Grade came to the conclusion that partition proceeding should proceed and ultimately after hearing the objections to '*Naksha Aira (Bey)*', accepted the same vide order dated 29.02.1999 (Annexure P-2). Aggrieved against that, three appeals were filed before respondent No.3-Collector, Nakodar, who vide order dated 14.11.2000 (Annexure P-3) remanded the case to respondent No.4-Assistant Collector Ist Grade for fresh decision. Against that, revision petition was filed before respondent No.2-Commissioner (Appeals), Jalandhar Division, Jalandhar, who vide order dated 15.01.2003 (Annexure P-4) dismissed the same with the observation that the partition application be decided in accordance with the mode of partition already confirmed on 25.03.1996 (Annexure P-1). However, respondent No.4-Assistant Collector Ist Grade, Nakodar, re-framed the mode of partition vide order dated 13.11.2003 (Annexure P-5) to the extent that the land situated alongside the road front being valuable be allotted to all the co-sharers according to their share. Feeling aggrieved,

**CWP-16513-2008**

the petitioner filed an appeal before respondent No.3-Collector, Nakodar which was dismissed vide order dated 05.04.2004 holding that only revision petition lies and not appeal lies against the interlocutory order of respondent No.4-Assistant Collector Ist Grade. Being dissatisfied, the petitioner filed revision before respondent No.2-Commissioner, Jalandhar Division, Jalandhar which has been dismissed vide order dated 28.10.2005 (Annexure P-7). Thereafter, the petitioner filed revision before respondent No.1-Financial Commissioner which has been dismissed vide impugned order dated 19.03.2008 (Annexure P-8). Hence, this revision.

I have heard learned counsel for the parties and perused the record.

The proposed mode of partition has been sanctioned. It is the case of the petitioner that the partition of land has to take place keeping in view the possession whereas the Collector, Nakodar has stated that land which is adjacent to the road has to be given according to the share of the co-sharers and, therefore, the land which is adjacent to road shall be partitioned according to the share and the cut for passages etc. will be imposed proportionately on all the co-sharers. It is a common practice that land is to be partitioned according to the kind and value of the property and all the co-sharers are given shares in the valuable land according to their respective shares. While doing so, the possession of the parties is bound to be disturbed to certain extent.

In view of above, I do not find any illegality or perversity in

**CWP-16513-2008**

the impugned order dated 19.03.2008 (Annexure P-8) passed by respondent No.1-Financial Commissioner (Appeals), Punjab.

Dismissed.

**05.04.2016**  
parveen kumar

**(Paramjeet Singh Dhaliwal)**  
**Judge**