

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

Civil Writ Petition No. 13071 of 2016

Date of Decision: 27.9.2016

Kulwinder Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondent

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Gourave Bhayya Gilhotra, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the impugned order dated 29.11.2010 (Annexure P-4), passed by the Assistant Grade 1st Grade, Jagraon, District Ludhiana, whereby land amongst co-sharers was partitioned.

Learned counsel for the petitioner submits that petitioner could not appear in the partition proceedings, because he was not duly served. He further submits that partition proceedings came to be finalised in the absence of the petitioner and even deed of partition was also issued. However, learned counsel for the petitioner did not place on record either any order whereby the petitioner was proceeded ex parte or report made by process serving agency on the notice issued to the petitioner, for the reasons best known to him.

Amit Kumar
2016.09.28 18:06
I attest to the accuracy and
integrity of this document

In the absence of any such material document, this Court is not in a position to appreciate, whether the petitioner intentionally did not appear before the Assistant Collector 1st Grade or because of some bonafide reasons. Further, present writ petition has been filed after a period of more than six years. No justified explanation is forthcoming to explain this inordinate long delay of six years. Private respondents as well as petitioner were residents of same village. It does not appeal to reason that petitioner would have not come to know about partition proceedings, including issuance of deed of partition for this inordinate period of about six years.

In view of the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that so far as present writ petition is concerned, it is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

However, keeping in view peculiar facts and circumstances of the case, liberty is granted to the petitioner to file a civil suit against the impugned order. It is so said because in the circumstances of the case, parties would be required to lead their respective evidence before the learned civil court.

With the abovesaid observations made above, present writ petition stands dismissed, however, with liberty as indicated above.

(RAMESHWAR SINGH MALIK)
JUDGE

27.9.2016
Ak Sharma

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No