

CWP No.8670 of 2016

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

CWP No.8670 of 2016
Date of decision: 06.05.2016

Mohammad Sadiq and others

....Petitioners

Versus

Financial Commissioner Appeals, Punjab and others

....Respondents

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. S.S. Salar, Advocate, for the petitioners.
Mr. Sunny K. Singla, Advocate, for the caveators.

PARAMJEET SINGH DHALIWAL, J. (ORAL)

Instant writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of *certiorari* for quashing the *sanad takseem* dated 12.09.2012 (Annexure P-4) as well as the order dated 20.07.2011 (Annexure P-2) passed by Assistant Collector Ist Grade, Malerkotla whereby in an application moved by respondents No.3 to 5 for partition of land, petitioners have been proceeded against ex parte and the order dated 08.02.2016 (Annexure P-6) passed by Financial Commissioner, Punjab, whereby revision filed by the petitioners against the order dated 12.09.2012 (Annexure P-2) whereby *sanad takseem* was been issued, has been dismissed.

I have heard learned counsel for the parties and perused the

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record.

Learned counsel for the petitioners contends that after framing of instrument of partition, Assistant Collector Ist Grade has no authority to re-open the case.

Learned counsel for the caveator submits that revision petition of the petitioners has been dismissed because the ex parte order was not challenged by the petitioners.

Apparently, due to wrong advice, petitioners approached the wrong forum instead of moving appropriate application for setting aside the ex parte order. Petitioners have every right to move appropriate application for setting aside the ex parte order as the case of the petitioners is that they have been proceeded against ex parte without any valid service.

In view of above, petitioners will be at liberty to move appropriate application for setting aside the ex parte order before the concerned authority. In case such an application is moved, same shall be decided on merit. Petitioners will also be at liberty to move application for staying the operation of warrants of possession before the same authority. Execution of warrants of possession shall remain stayed for two weeks from today.

Disposed of.

(Paramjeet Singh Dhaliwal)
Judge

May 06, 2016
R.S.