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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-14827-2014

Date of decision : 10.03.2017

Makhan Singh

... Petitioner(s)

Versus

Financial Commissioner, Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Rajiv Joshi, Advocate
for the petitioner.

Mr. T.N. Sarup, Addl. A.G., Punjab.

Ms. Surinder Kaur, Advocate
for respondent Nos.3, 5, 6, 8 & 9.

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the order dated 11.03.2014 (Annexure P-4) passed by the Financial Commissioner, Punjab and order dated 19.10.2010 passed by the Commissioner, Jalandhar Division, Jalandhar on the premise that despite final partition having been effected on 27.07.2009 and possession thereof has been taken on 28.12.2009, the *ex parte* proceedings in the petition under Section 111 of the Punjab Land Revenue Act (for short 'the Act') have been set aside by the Commissioner and affirmed by the Financial Commissioner, Punjab/respondent No.1.

Mr. Rajiv Joshi, learned counsel appearing on behalf of the petitioner submits that respondent No.3-Jeet Singh @ Ajit Singh resident of

Village Cheema, Tehsil and District Kartarpur, had refused to accept the notice as the address given was written Village Cheema, Tehsil and District Jalandhar. Even the publication was also caused in the newspaper, much less, proclamation, thus, there is a compliance of the provisions of Section 20 of the Act. A registered letter was also sent, but yet there was no appearance. The application for partition was filed way back on 08.09.2008 and *Naksha ura* and *Naksha be* were prepared on 16.12.2008 and 08.06.2009, respectively. The final partition was effected on 27.07.2009. The Collector had dismissed the appeal, but the Commissioner and the Financial Commissioner (Revenue), Punjab set aside the order of the Collector and remanded back the matter.

He further submits that it is an intentional act of the respondent(s) not only tire out, but embroil the petitioner in the litigation for infinite period and not backed by any cogent and direct reasons. Even the possession, as per the mode of suggestion and final partition, has been given. It would be tantamount to putting the clock back which would not fall within the expressions of "In the Interest of Justice", thus, urges this Court for setting aside the orders under challenge.

Ms. Surinder Kaur, learned counsel appearing on behalf of respondent Nos.3, 5, 6, 8 & 9 submits that there is no compliance of the provisions of Section 20 of the Act. In view of the aforementioned fact, the Court below particularly the Commissioner, finding the factum of not effecting the service in accordance with law, much less, the partition has not been done according to mode of partition, set aside the order and remanded the matter back. No prejudice would be caused to the petitioner to contest

the case, if some time-line is fixed up.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no merit and substance in the submissions of Mr. Rajiv Joshi, learned counsel appearing on behalf of the petitioner, for, the provisions of Section 20 of the Act leave no manner of doubt that a specific procedure has been prescribed for effecting the service. The order, under challenge, do not deal with the aforementioned fact, therefore, the *ex parte* proceedings, in my view, are not valid. Even the Commissioner has also noted that partition had not effected according to the mode of partition. All these factors were/are required to be examined by affording opportunity to the respondent to object to the mode of partition.

In view of such situation, the argument of Mr. Rajiv Joshi, with regard to the maintainability of the revision petition against the order of the Assistant Collector, Grade-I, Jalandhar, in view of the fact that the final partition has been effected, is not tenable viz-a-viz the principle of equity and fair play.

However, I am sanguine of the fact that almost considerable time had already elapsed i.e. more than 8 years, I deem it appropriate to direct the Assistant Collector, Grade-I, Jalandhar to expedite the proceedings of the final partition afresh in accordance with law preferably within a period of six months from the date of the receipt of the certified copy of this order.

The Assistant Collector, Grade-I, Jalandhar shall also look into the aspect of the respective possession of the parties, much less, construction raised thereon.

Accordingly, the present writ petition is disposed of in the
aforementioned terms by upholding the orders 11.03.2014 (Annexure P-4)
passed by the Financial Commissioner, Punjab and order dated 19.10.2010
passed by the Commissioner, Jalandhar Division, Jalandhar.

10.03.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No