

CWP No.11329 of 2017

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

**CWP No.11329 of 2017
Date of decision:23.05.2017**

Ajaib Singh and others

... Petitioners

Vs.

Financial Commissioner, Appeals, Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. G.S.Sirphikhi, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

The petitioner – Ajaib Singh and others have challenged the partition proceedings in respect of land of which they are owners.

The grievance of Mr. Sirphikhi, Advocate is that the land measuring 7 kanals 4 marlas bearing khasra No.5R/13/2 was in the ownership of grandfather of the petitioners but Tehsildar declared the property to be evacuee which was sold to Hakam Singh, alleged tenant way back in the year 1998. The civil suit was dismissed by the trial Court, vide judgment and decree dated 16.05.2012 but the appeal is pending adjudication. He further submits that partition proceedings could not have been initiated as it would be hit by doctrine akin to partial partition.

I am afraid the aforementioned argument is fallacious and not sustainable on the ground that until and unless the petitioners and others are

not declared owners by virtue of decree in respect of aforementioned khasra number and succeed in setting aside the sale deed, no right enures/accrues seeking partition of the aforementioned land but as and when they will succeed, shall be at liberty to seek partition but not at this stage or can keep the partition proceedings in abeyance.

In view of the aforementioned observations, the impugned orders are perfectly legal and justified, much less no interference is warranted.

Accordingly, the writ petition is dismissed.

(AMIT RAWAL)
JUDGE

May 23, 2017
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No