

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

CWP No.1605 of 2017

Date of Decision.13.02.2017

Mehar Singh and another

.....Petitioners

Vs

State of Punjab and others

.....Respondents

Present: Mr. Vishal Gupta, Advocate
for the petitioners.

Ms. Naiya Gill, Advocate
for the caveator-respondent Nos.5 and 6.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

Notice of motion.

Ms. Naiya Gill, Advocate accepts notice for respondent Nos.5
and 6.

The contention of the counsel Mr. Vishal Gupta, learned
counsel appearing on behalf of the petitioners is that the Financial
Commissioner has committed illegality and perversity in dismissing the
revision petition filed against the order dated 27.10.2010 (Annexure P-7)
and 15.02.2008 (Annexure P-3).

He submits that the order of the Assistant Collector Grade-I
dated 15.02.2008 (Annexure P-3) was challenged by the petitioners before
the Collector, as the ex parte proceedings were initiated. The Collector
remanded the matter back to the Assistant Collector to decide the same
afresh. However, the aforementioned order was assailed by the respondents
before the Commissioner by filing appeal which was allowed and the order
of the Commissioner was assailed in the revision petition before the

Financial Commissioner who dismissed the revision petition.

He further submits that the application for partition of khewat Nos.96 and 97 is not maintainable and in support of his contention, relies upon the judgment rendered by Division Bench of this Court in **Kulwant Singh and others Vs. The Assistant Collector IInd Grade Nathusari Chopta and others 2002(3) RCR (Civil 207.**

During the course of hearing, he has drawn attention of this Court to the prayer indicating the factum of status of land in possession of the contesting respondents before the mode of partition and after the mode of partition at page 50-A and 50-B to contend that the land of superior quality has been given to the respondents and petitioners have been denied of the same, thus, this fact was required to be probed/pondered upon by the Financial Commissioner. The petitioner would be satisfied in case the nature of the land is equally divided i.e. superior quality.

Ms. Naiya Gill, learned counsel appearing for respondent Nos.5 and 6 submits that she does not accept the site plans and press for the mode of partition but in view of the stand taken by Mr. Vishal Gupta viz-a-viz the maintainability of the petition, does not dispute the same in case the matter is remitted back/revisited by the Financial Commissioner.

Keeping in view the aforementioned, the order of Financial Commissioner dated 7.9.2016 (Annexure P-9) is set aside and the matter is remitted back to the Financial Commissioner to decide the question of partition of superior and inferior quality of land taking into consideration all the pleas raised in the present writ petition and in the grounds of revision petition. The petitioners are also at liberty to demonstrate/place on record the aks sajra number and its modification, and thereafter, FC shall pass the

speaking order. Let this exercise be done within a period of four months from the date of receipt of certified copy of this order.

The writ petition stands disposed of in the aforementioned terms. The parties are directed to appear before the Financial Commissioner on 02.03.2017.

In the meantime, there shall be status quo qua possession till the adjudication of the ROR.

(AMIT RAWAL)
JUDGE

February 13, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No