

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

CWP No. 6513 of 2013

Date of decision : 17.03.2017

Harsimrandeep Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Naresh Kaushal, Advocate for the petitioner.

Ms.Lavanya Paul, AAG, Punjab.

Mr. Sanjeev Roy, Advocate for
respondents No. 5 to 11.

AMIT RAWAL, J.(Oral)

The petitioner is aggrieved of the impugned order of the Financial Commissioner(Revenue) whereby the order of the Commissioner remitting the matter back to the Assistant Collector for deciding the petition afresh has been set aside.

Mr. Narerssh Kaushal, learned counsel appearing on behalf of the petitioner submits that the finding of the Financial Commissioner (Revenue) with regard to the existence of residential area is totally off the record much less against the certificate (Annexure P-5) whereas the entire land measuring 8 kanals is cultivable/agriculturable. As per the earlier mode of partition (Annexure P-1) Naksha Bey (Annexure P-6) was prepared whereby there was equal division of the property which is reflected from the site plan (Annexure P-6) i.e. green portion in favour of the petitioner and

orange in favour of the respondent. However, the Naksha Bey was changed whereby the possession has been ordered to be disturbed and the area proposed to be given by Annexure P-11 is in L- shape. Thus, finding of the Commissioner was perfectly legal and there was no occasion for the Financial Commissioner to set aside the same.

Per contra, Mr.Sanjeev Roy, learned counsel appearing on behalf of the private respondents has drawn the attention of this Court to Annexure R-5 to show that the earlier mode of partition did not suggest the provision of passage muchless the Naksha Bey. It is in this back drop of the matter, mode of partition/Naksha Bey was suggested to be modified. No prejudice has been caused to the petitioner and order of the Financial Commissioner is perfectly legal and justified and results into contiguity of the existing possession of the petitioners.

I have heard learned counsel for the parties and apprised the record and am of the view that there is force in the submissions of Mr. Kaushal for, the conceded position on the record is that the total land is 8 kanals for which the partition has been sought and is agricultural much less cultivable. There is no existence of residential houses except temporary sheds for the purpose of providing protection to the motor or the submersible pump, if any. The order of the Commissioner was perfectly legal and justified and it had noticed that the earlier Naksha Bey had been changed to that shape which was not in accordance with the proposed mode of partition Annexure P-1 whereas there was a provision of providing passage of 2 karams while carving of 2 kurras. This fact has not been noticed by the Financial Commissioner, therefore, the order of Financial Commissioner is not only redundant but unsustainable in the eyes of law and is, therefore, set

aside. The order of the Commissioner is upheld.

The writ petition stands allowed.

(AMIT RAWAL)
JUDGE

March 17, 2017
sunita

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