

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: January 12, 2017

1. C.W.P.No.8890 of 2016

Amarjit Kaur

...Petitioner

Versus

Financial Commissioner, Revenue Punjab, Chandigarh & others

...Respondents

2. C.W.P.No.8980 of 2016

Amarjit Kaur

...Petitioner

Versus

Financial Commissioner, Revenue Punjab, Chandigarh & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.K.B.Raheja, Advocate,
for the petitioner in both the petitions.

AMIT RAWAL, J.

By this order, I intend to dispose of two Civil Writ Petitions No.8890 and 8980 of 2016 as the common questions of law and fact are involved in both the cases. The facts are being taken from CWP No.8890 of 2016.

The petitioner is aggrieved of the impugned orders dated 21.2.2014 (Annexure P-9) passed by the Commissioner, Jalandhar Division, Jalandhar-respondent No.2 and 17.11.2015 (Annexure P-10) of the

Financial Commissioner, Revenue Punjab, Chandigarh on the premise that the application for partition of the land, moved by the petitioner was allowed by the Collector-Cum-SDM, Amritsar-II on 1.12.2006. The aforementioned order was challenged by the private respondents by filing an appeal before the Collector, which was dismissed. The revisions preferred before the Commissioner (Appeals) and Financial Commissioner (Revenue) were also dismissed on 17.10.2008 and 10.3.2009 respectively.

Mr.K.B.Raheja, learned counsel for the petitioner has submitted that the petitioner purchased the land measuring 8 kanals vide registered sale deed dated 18.10.2005. Copy of the sale deed has been annexed with the petition as Annexure P-2. Her share in the entire land comes to 12 kanals 12 marlas, which is fully reflected in the jamabandi for the year 2000-01. However, the total area mentioned in naksha Zeem/iri is 12 kanals 2 marlas. It is in this backdrop of the matter, the appeal was filed after the period of six years before the Collector, who rightly condoned the delay and it is against the order of delay, the respondents preferred the revision which has been accepted vide order dated 21.2.2014 (Annexure P-9) and the revision filed under Section 16 of the Punjab Land Revenue Act before the Financial Commissioner (Revenue), Punjab has also been dismissed.

He further submitted that no harm would be caused to the respondents as the delay has been condoned in the presence of the parties. If at all, the order lacks reasons, the Collector would have been directed to pass the fresh order, but the entire appeal can not to be dismissed. The petitioner is a poor lady and she did not know the evil designs of the respondents when her right with regard to shortage of land of 10 marlas has seriously been prejudiced, thus, the orders under challenge are liable to be

set-aside.

I have heard the learned counsel for the petitioner, appraised the paper book and of the view that against the final partition, no appeal lies before the Collector in view of the law laid down in **Amar Khan & others Versus State of Punjab & others, 2009 (1) RCR (Civil) 741**. The remedy available is before the Financial Commissioner (Revenue), therefore, the Collector had no occasion to entertain the appeal, much less condone the delay against final partition. It is in this backdrop of the matter, the Commissioner Jalandhar Division, Jalandhar had accepted the revision of the respondents vide order Annexure P-9 and the revision has rightly been dismissed by the Financial Commissioner (Revenue).

No explanation has come on record in moving the application after the gap of six years. Since the petitioner has not availed the remedy, the Commissioner has accepted the revision of the respondents and the revision filed by the petitioner before the Financial Commissioner (Revenue) has been dismissed.

For the foregoing reasons, no case for interference is made out. The writ petitions stand dismissed.

January 12, 2017
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(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No