

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

**CWP No.6975 of 2017
Date of decision:03.04.2017**

Mohinder Singh

... Petitioner

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Dheeraj Mahajan, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The grievance of the petitioner is that originally partition application came to be decided on 05.08.2003 (Annexure P-1). The appeal filed against the same by Joginder Singh was dismissed, vide order dated 29.03.2004. However, the aforementioned partition application was not further pursued and remained un-executed for more than 03 years, in view of the provisions of Section 122 of Punjab Land Revenue Act. The petitioner filed another application under Section 111 of the Act, seeking partition of the land measuring 248 kanals 11 marlas owing to the existence of certain supervening facts regarding acquisition of land by National Highway Authority, i.e., reduction in the share holding of co-owners. After filing the time barred revision on 23.09.2011 before the Commissioner, the respondents filed reply in the partition application on 21.12.2011 (Annexure P-4). However, the aforementioned application filed by the petitioner, vide order dated 16.03.2012 (Annexure P-5) was adjourned sine

die. In the meantime, Avtar Singh had filed revenue appeal bearing No.186 of 2011 against the order dated 29.03.2004 after a lapse of 07 years which was filed on 26.09.2011 after filing of second partition application but the same was dismissed on 20.02.2015 (Annexure P-6) and ROR bearing No.679 of 2015 was also dismissed. However, while dismissing the revision petition, the Financial Commissioner ordered that a copy of the order be sent to the petitioner, respondent, the concerned Divisional Commissioner and the District Collector for further necessary action. It is in this backdrop of the matter, the Assistant Collector had initiated the proceedings in the previous partition application which is evident from the zimni order dated 05.10.2016 at page 13 of the paper book. In this regard, the petitioner moved an application for dismissal of the said partition application vide Annexure P-9 and reply thereto (Annexure P-10) has been filed. However, the matter is stated to be pending adjudication. He further submits that the previous partition application could not have been decided. At the best, the Assistant Collector has to decide the application for dismissal of the partition application.

The aforementioned prayer of Mr. Dheeraj Mahajan, Advocate is fair and justified. Without commenting upon the merits and de-merits of the matter, much less the other party would have a stand in response to the application for dismissal, I deem it appropriate to dispose of the present writ petition by directing the Assistant Collector Ist Grade – respondent No.3 to decide the application for dismissal of the partition application before proceeding further in the partition application as expeditiously as possible

preferably within a period of one month from the receipt of a certified copy of this order.

Writ petition stands disposed of with the aforementioned direction.

(AMIT RAWAL)
JUDGE

April 03, 2017
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No