

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

**CWP No. 11327 of 2018
Date of Decision : 07.05.2018**

Joginder Singh and another

Versus

State of Punjab and others

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present :- Mr. R.K. Arya, Advocate
for the petitioners.

AVNEESH JHINGAN, J.(Oral)

The present petition has been filed by Joginder Singh son of Mohan Singh and Fauja Singh son of Assa Singh for quashing of order Annexure P-3, dated 28.11.2017.

The petitioner No.1 filed an application for partition of land measuring 84 Kanals situated at village Talibpur, H.B. 652, Tehsil and District Gurdaspur. The said application was allowed by Tehsildar-cum-Assistant Collector, Ist Grade, Gurdaspur vide order dated 23.09.2011. Kuldeep Singh son of Chanan Singh filed an appeal against the order dated 23.09.2011 before Sub-Divisional Magistrate-cum-Collector, Gurdaspur. The appeal was dismissed vide order dated 02.04.2012. Order of the Assistant Collector was upheld.

Still aggrieved, a revision petition under Section 16 of Punjab Land Revenue Act, 1887 was filed against order dated 02.04.2012.

The grievance raised in the revision petition was that the exparte order passed by the Assistant Collector, Ist Grade, Gurdaspur was in violation of principles of natural justice. The order was passed in spite of the fact that all the co-sharers were not impleaded as parties by the applicant. The address given of Nanjinder Singh and Salwinder Singh of village Karwal, was intentionally given wrong as they never resided in the said village. The summons were never served through ordinary post, registered post or by any other mode. Further, grievance was that the partition was ordered upon the jamabandi for the year 2003-04 and jamanbandi for the year 2008-09 was not filed.

The Commissioner accepted the revision petition. It was held that the order was passed by the Assistant Collector, Ist Grade, Gurdaspur without proper service. It was not considered that the civil suit for permanent injunction filed by the respondent no.1 (now petitioner no.1), had also been dismissed. The order of the Assistant Collector, Ist Grade and the order passed in the appeal were set aside and the matter was remitted back to the Assistant Collector, Ist Grade, Gurdaspur, to carry out partition proceedings afresh after due intimation to all the interested parties.

Aggrieved of the acceptance of the revision petition and remand of the matter, the petitioners filed writ petition. The findings recorded by the Commissioner that the order was passed exparte without service of notice have not been challenged. It is not shown that exparte

order was passed after complying with the principles of natural justice. No ground has been made for interference with the remand order. No prejudice has been shown to be caused to the petitioners if the application for partition is decided afresh after giving opportunity to all the interested parties.

The order passed by the Commissioner is legal and valid.

The writ petition is dismissed.

Learned counsel for the petitioner, at this stage, contended that the remand proceedings be decided in a time bound manner. There is no reason to doubt that the Assistant Collector, Ist Grade, Gurdaspur would delay the decision in remand proceedings.

(AVNEESH JHINGAN)
JUDGE

07.05.2018
Manpreet

Whether reasoned / speaking	Yes
Whether reportable	No