

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

**Civil Writ Petition No.13259 of 2018
Decided on : 06.08.2018**

Chagar Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr. Jagjit Gill, Advocate
for the petitioner.

G.S. Sandhawalia, J. (Oral)

The petitioner in the present writ petition filed under Article 226/227 of the Constitution of India challenges the order dated 01.07.2014 (Annexure P-10) passed by the Financial Commissioner (Revenue), Punjab, whereby it has been held that in view of the amended act, it was a case of partition and, therefore, the revision was not maintainable. It has further been held that the Mode of Partition had been finalized by the Assistant Collector Grade-I on 01.11.2010 (Annexure P-6), which has been upheld on 14.02.2011 (Annexure P-7) by the Collector and by the Commissioner, Faridkot Division on 31.10.2012 (Annexure P-8).

The petitioner was arrayed as respondent No.4 in the partition proceedings, initiated by respondent No.5-Jeet Singh, for the land measuring 215 kanals 7 marlas situated within the revenue limits of village Sivian, Tehsil & District Bathinda as per Jamabandi for the year 2003-2004. At the initial stage, *Naksha Alaf* having been received which was shown to the parties present and the case was adjourned for objections. On account

of Natha Singh, the brother of the petitioner have been proceeded against *ex parte*, the Collector vide order dated 31.08.2010 (Annexure P-5) had set aside the proceedings in the appeal filed by his legal representatives, so that they could be even file objections on the Mode of Partition and so that fresh decision could be taken after hearing the parties. In such circumstances, the matter was again taken up as a statement had been made by the parties that partition be effected after breaking the possession and they have no such objections and in such circumstances, the petitioner had consented to the Mode of partition being proposed. After noting that earlier on 18.06.2010, it was to be done after breaking the possession and the Mode of Partition was proposed. which was done by keeping the possession intact. No objections were raised on the same and resultantly, *Naksha-Be* was called from the Field *Kanungo* on 01.11.2010 (Annexure P-6).

Out of 21 persons who were arrayed as respondents, the present petitioner filed the appeal beyond the period of limitation taking the plea that partition be effected after breaking the possession, which plea has been rejected by the Collector on 14.02.2011 (Annexure P-7) by noticing that the appeal was to be filed within 15 days, but a delay of more than one month has occurred, when the Mode of Partition had been prepared second time. Similar view was taken by the Commissioner on 31.10.2012 (Annexure P-8).

It is, thus, apparent that once the petitioner himself in the second round had not objected to the Mode of Partition as per the

possession, he cannot now turn around and starting claiming that partition should be done on the basis of breaking the possession, as recorded earlier, since his brother had not been served at that stage. It is in such circumstances, the appeal has been decided against the petitioner.

Resultantly, this Court is of the opinion that there is no infirmity or illegality in the orders passed by the authorities, which would warrant interference by this Court in the writ jurisdiction under Article 226/227 of the Constitution of India.

Accordingly, the present writ petition is dismissed in limine.

AUGUST 06, 2018
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No