

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

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Civil Writ Petition No.15217 of 2018
Date of Decision: July 13th, 2018

Nek Singh

...Petitioner

Versus

Financial Commissioner Revenue Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Pardeep Kumar, Advocate
for Mr. Amandeep Singh Cheema, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 28.02.2018 (Annexure P-6) passed by the Financial Commissioner, Revenue, Punjab, by which the revision petition preferred by the petitioner has been dismissed as also the order dated 21.01.2013 (Annexure P-3) passed by the Assistant Collector Ist Grade, Joga-respondent No.2, whereby the petitioner was proceeded against *ex parte* and subsequently order dated 23.05.2014 (Annexure P-4) was passed for partitioning the land, of which the petitioner was also a co-sharer, on an application submitted by two other co-sharers namely Bikkar Singh and Makhan Singh, by asserting that the said orders cannot sustain as the petitioner was not duly served before the Assistant Collector Ist Grade and proper procedure as prescribed under the Punjab Revenue Act has not been followed.

2. It is the contention of learned counsel for the petitioner that as the petitioner was not served, grave prejudice has been caused to him as he has not been given an opportunity to put forth his claim and objection to the partition. His further contention is that prejudice has been caused to the petitioner because of the partition proceedings and, therefore,

the impugned order dated 28.02.2018 passed by the Financial Commissioner, Revenue, Punjab, also cannot be sustained.

3. I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the impugned orders.

4. Perusal of the order dated 28.02.2018 passed by the Financial Commissioner, Revenue, Punjab, would show that the factum that the petitioner was not served in a proper manner as per the procedure prescribed under the Punjab Revenue Act stands accepted by the said authority, however, in the light of the fact that the partition application was moved on 30.08.2012 and the proceedings had been pending since then, the said authority had proceeded to itself peruse the revenue records and has ultimately come to a conclusion that no prejudice as such has been caused to the petitioner which would persuade the said authority to set aside the order dated 21.01.2013 and 23.0.2014 (Annexures P-3 and P-4 respectively) passed by the Assistant Collector Ist Grade. It is nowhere the case of the petitioner that the possession of the petitioner in any manner has been disturbed because of the partition proceedings. Obviously, as per the two applicants, who had sought partition of the land, their shares were short by 1 kanal and 14 marlas of land, which was in their possession. The said land had to be made good in the partition proceedings and, therefore, the prejudice, if any, would be ultimately, at the time of partition between other co-sharers qua their respective shares with regard to 1 kanal and 14 marlas of land as far as that is concerned. The Financial Commissioner, Revenue, Punjab, has passed a detailed well reasoned order and this Court is in

agreement with the same as no prejudice as such as of now has been caused to the petitioner in any manner.

5. Finding no merit in the present petition in the above facts and circumstances of the case, the same stands dismissed.

July 13th, 2018
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

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