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

CWP No.16904 of 2018
Date of decision: 11.9.2018

Mohan Singh and another

...Petitioners

Versus

Financial Commissioner(Appeals), Punjab and others

...Respondents

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

Present: Mr. G.L.Bajaj, Advocate for the petitioners

G.S.SANDHAWALIA, J. (Oral)

The petitioner challenges the order dated 16.12.2016 (Annexure P/8) passed by respondent no.1-Financial Commissioner (Appeals), Punjab, order dated 25.2.2016 (Annexures P/7) passed by respondent no.2-Commissioner, Ferozepur Division, Ferozepur, order dated 26.7.2013(Annexure P/6) passed by the Collector, Jalalabad, order dated 4.6.2010 (Annexures P/4) passed by respondent no.4- Assistant Collector (Tehsildar) Ist Grade, Jalalabad as well as Sanad Takseem dated 4.6.2010 (Annexure P/5) in which he was himself the applicant for partition of land measuring 297 Kanals 13 Marlas.

The Mode of Partition was drawn on 18.3.2009 (Annexure P/3) and the Instrument of Partition was drawn on 4.6.2010(Annexure P/4). The authorities below have recorded that mutation has been entered in presence of the parties to the partition proceedings in view of the fact that possession had been delivered. After a period of three years, the petitioner had filed an appeal on the ground that mode of partition was violated in as

much as the person who had mortgaged the land with the bank the same was to be put in his tak as per Clause 5 of the Mode of Partition. The said appeal was dismissed by the Collector, Jalalabad vide order dated 26.7.2013 (Anenxure P/6) as instrument of partition already had been prepared and he did not have jurisdiction. The Commissioner, Ferozepur Division, Ferozepur had also upheld the said order vide order dated 25.2.2016 (Annexure P/7). The Financial Commissioner vide impugned order dated 16.12.2016 (Annexure P/8) has also disposed of ROR with the following directions:-

“Keeping in view the above, the case is disposed of with a direction to Assistant Collector-I, Jalalabad to verify the record regarding provision for allotting khewats on which the loan was obtained by the parties in mode of the partition and pass a speaking order. However, this order will in no way affect the final partition order, Sanad issued and mutation sanctioned in the case.”

Once the Instrument of Partition as such had become final and the appeal was thereafter dismissed by the Court which has no jurisdiction, the orders passed do not suffer from any infirmity especially when the mutation had already been entered and private respondents who were as many as 26 in numbers and arrayed as party were involved and their interest was affected as such as possession had been taken.

The order passed by the Financial Commissioner is also difficult to fathom as once the orders challenged in revision petition itself did not suffer from any infirmity as such and the Financial Commissioner has unnecessarily created an ambiguity without even calling upon the opposite side which cannot be appreciated in any manner and therefore need

not be acted upon.

Accordingly, no ground is made out to interfere with the impugned orders and the present writ petition is dismissed in limine.

September 11, 2018
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(G.S.SANDHAWALIA)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No