

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

**CWP No.2608 of 2018
Date of Decision:19.09.2018**

Rachhpal Singh ...Petitioner

Versus

Financial Commissioner (Punjab) and others ...Respondents

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

Present: Mr. Arun Jindal, Advocate
for the petitioner.

G.S. SANDHAWALIA, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India challenging the order dated 13.02.2014 (Annexure P-4), of the Collector, Dhuri whereby the order of the Assistant Collector, dated 05.03.2013 (Annexure P-2) adjourning the partition proceedings *sine die* on account of fact that the matter was pending before the Civil Court, has been set aside.

It is not disputed that the petitioner had filed a civil suit in which permanent injunction was granted, when issues were framed on 15.10.2012 (Annexure P-1). The defendants had taken the matter to the Appellate Court and the Additional District Judge, Sangrur had modified the injunction order to the effect that the appellants/defendants Pal Singh and Lal Singh, (respondent Nos.5 and 6 herein) were given the benefits to take the possession of the suit property in due course of law and the restraint from dispossessing the plaintiff/petitioner illegally till the decision of the suit, however, continued. The operative part of the order

dated 07.05.2014 (Annexure P-3) reads as under:

“8. But, this court is of the opinion, that the respondent has been absolutely restrained from interfering or dispossessing the plaintiff from the suit property rather it should have been otherwise that the respondent can take possession of the suit property in due course of law. Accordingly, the present appeal stands disposed of with following observations that the appellants are restrained from interfering or dispossessing the respondent/plaintiff from the suit property otherwise then in due course of law till the decision of the suit. With these observations the present appeal stands disposed of.”

The Collector vide order dated 13.02.2014 (Annexure P-4) set aside the order of the Assistant Collector, Dhuri and directed him continue the partition proceedings which order has been further upheld by the Commissioner, Patiala Division, Patiala on 23.12.2014 (Annexure P-6). The said order has been upheld by the Financial Commissioner on 24.04.2017 (Annexure P-8) which is now subject matter of challenge.

The order of the Additional District Judge, Sangrur is very clear to that extent that injunction is only to the extent that the plaintiffs are entitled for protection and respondents can take possession in accordance with law. In case, the partition proceedings are finalized and warrants of possession by the revenue authorities are issued on the basis of instrument of partition it is always open to the said respondents to take possession, as the same would be in accordance with law.

Counsel is not in a position even to inform this Court as what is the latest status of the Civil Court proceedings.

Accordingly, order dated 13.02.2014 (Annexure P-4) passed

by the Collector, Dhuri directing the Assistant Collector to continue with the partition proceedings cannot be faulted in any manner.

In view of the above, the present writ petition is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

19.09.2018
pvd

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No