

**IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
105**

**CWP-28115-2018 &
CM-19361-CWP-2018**

Date of decision: 19.12.2018

BALBIR SINGH

...PETITIONER

VS.

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Vishal Munjal, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-19361-CWP-2018

C.M. is allowed subject to just exceptions. Site Plan (Annexure P-6) is taken on record.

CWP-28115-2018

Petitioner has approached this Court challenging the order dated 12.09.2018 (Annexure P-5) passed by the Financial Commissioner, Punjab, order dated 06.02.2018 (Annexure P-4) passed by the Additional Commissioner (Appeals), Jalandhar Division, Jalandhar, exercising the powers of Commissioner (Appeals), order dated 06.05.2016 (Annexure P-1) passed by the Assistant Collector Ist Grade, Pathankot and the final instrument of partition (Sanad Takseem) dated 10.07.2016 issued by the Assistant Collector Grade I, Pathankot on the ground that 55 feet less frontage on the metalled road has been given to the petitioner as compared to the private respondent No. 5 in the partition proceedings.

It is the contention of the learned counsel for the petitioner that

there is a metalled road which is 27.5 feet wide leading through Taragarh to Seora adjoining the suit land. He contends that 847 feet is the frontage of the road, out of which 396 sq. feet has been given to the petitioner whereas 451 feet has been given to the private respondent No. 5. He, on this basis, contends that 55 feet less frontage on the metalled road has been given to the share of the petitioner causing loss to him as the land on the metalled road is comparatively more expensive than the other land. He, therefore, contends that the order passed by the Financial Commissioner, Punjab, cannot sustain. Another submission, which has been put forth by the counsel for the petitioner, is that the partition proceedings does not include land in Khatauni No. 19R of 19/1, which is 3 Kanals and in possession of respondent No. 5. He, thus, contends that the orders passed by the authorities below and challenge herein cannot sustain.

I have considered the submissions made by the learned counsel for the petitioner and with his assistance, have gone through the records of the case as well as the impugned orders including the site plan.

On perusal of same, this Court is satisfied that the orders passed by the authorities below are based upon the facts and on consideration of the same, it is found that there is a minor difference as far as the frontage is concerned, as has been observed by the Financial Commissioner, Punjab in his order dated 12.09.2018, which alone cannot made the basis for setting aside the orders passed by the authorities. There is no patent illegality in the order which would call for interference.

As Regards the contention of the learned counsel for the petitioner with regard to non-inclusion of 3 Kanals of land as in Khatauni No. 19R of 19/1, this objection was never raised by the petitioner and the

said issue has not been racked up before the Financial Commissioner as well. At this belated stage, this Court would not look into the said aspect.

Finding no merit in the present writ petition, the same stands dismissed.

December 19, 2018

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No