

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

**Civil Writ Petition No.9402 of 2018  
Decided on : 07.09.2018**

Jasbir Singh and another

... Petitioners

Versus

State of Punjab and others

... Respondents

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

Present : Mr. Amit Arora, Advocate for the petitioners.

**G.S. Sandhawalia, J. (Oral)**

Challenge in the present writ petition filed under Article 226/227 of the Constitution of India is to the order of the Financial Commissioner dated 08.12.2016 (Annexure P-8), whereby the revision petition of the petitioners was dismissed.

The reasoning which prevailed with the Financial Commissioner was that the petitioners were purchasers of the land during the pendency of the partition proceedings. It was noticed that partition proceedings had been initiated way back on 19.04.2005 (sic 19.05.2005) and the sale deeds were executed by the vendors of the present petitioners on 09.05.2006 and 06.06.2006.

The argument, thus, which has been raised that they have not given an opportunity of hearing was repelled on this ground that they had stepped into the shoes of the vendors and, therefore, could not have any grouse as such of not being heard. Reference was also made to the judgment of the Additional District Judge, Tarn Taran dated 19.09.2016, whereby the petitioner No.2 Surjit Singh has also lost the civil litigation, whereby he claimed to be owner in possession of 42 kanals on the basis of the sale deed dated 06.06.2006.

It is pertinent to notice that the Mode of Partition was prepared

on 11.10.2006 and the *Sanad Takseem* was drawn up on 05.02.2007. Resultantly, warrants of possession had been issued on 04.04.2007. At the initial stage the petitioners were successful in getting a order of remand from the Commissioner (Annexure P-6), which was set aside by this Court in **CWP No.12746 of 2011 'Mukhtar Singh and others Vs. Commissioner, Jalandhar Division and others'** decided on 15.11.2012 (Annexure P-7) on the ground that the Commissioner has no such jurisdiction, as final partition had been prepared as noticed above. In view of the liberty given at that point of time against the final partition proceedings, the revision petition was filed before the Financial Commissioner, which has led to the passing of the impugned order.

The impugned order, thus, notices the fact that once the vendors as such had been arrayed as respondents before the revenue authorities and the purchase was during the pendency of the partition proceedings the right of the petitioners to be heard on the principle of *audi alteram partem* would not arise. Even otherwise warrants of possession have been executed and parties are in possession of the land for over a decade. Thus, this Court is not inclined to interfere with the impugned orders, once the civil court order has also held against the petitioners, which the counsel for the petitioners has been fair to concede.

Resultantly, no case is made out to call upon the other side and the writ petition is, accordingly, dismissed in limine.

**SEPTEMBER 07, 2018**

*Naveen*

*Whether speaking/reasoned:*

*Whether Reportable:*

**(G.S. SANDHAWALIA)  
JUDGE**

*Yes/No*

*Yes/No*