

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

**LPA-1096-2018 (O&M)
Date of Decision: August 16, 2018**

Mann Singh

...Appellant

Versus

Financial Commissioner Punjab Chandigarh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE.
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.**

**Present: Mr. Naresh Chander, Advocate,
for the appellant.**

KRISHNA MURARI, C.J. (ORAL)

This Letters Patent Appeal filed by the appellant under Clause X of the Letters Patent, is directed against the judgment and order of the learned Single Judge, dated 03.07.2018, dismissing the writ petition challenging the orders passed by the authorities below in respect of partitioning of the land.

Main grievance raised before us during course of arguments is that a *gair mumkin* land has been included in the document of partition, which was legally not permissible. A perusal of the records indicates that this issue was initially raised before the Assistant Collector 1st Grade and thereafter Collector, Commissioner and the Financial Commissioner and all the authorities have rejected the claim of the appellant-petitioner. Thus, all the four fact finding authorities have not accepted the claim set up by the appellant-petitioner. At this stage, we consider it appropriate to quote from

the judgment of the Financial Commissioner, which clinches the issue being raised:

“4. On the other hand, Counsel for respondents has submitted that the partition has been effected in such a manner that every co-sharer is given his land proportionately as per entitlement. Khasra no. 444 has been partly included by the petitioner in his land and continues to use the portion of the land which falls in the share of respondent. It is further submitted that a chunk of land has been ear-marked for common use of all co-sharers so they can use it to reach their fields easily.

5. I have considered the arguments of the parties and have gone through the record available on the file. The plea of Maan Singh was rejected by the Commissioner on the ground that he was not having jurisdiction because the partition proceedings have been finalized. On merits also, I do not find any substance in the plea of the petitioner because the AC 1st has decided the matter keeping view all the circumstances in the case and in accordance with Mode of Partition. No objections have been raised before the AC 1st grade Rajpura at any stage. It appears this litigation is only an attempt to delay the partition proceedings. It has been specifically mentioned in the written arguments that a common place has been ear-marked for the common use of

the co-sharers. Therefore, it may not be appropriate to keep the partition matter pending on such flimsy grounds. Hence, the petition is dismissed.”

In view of the finding of fact recorded by the Financial Commissioner quoted here-in-above and according to the learned counsel for the appellant a warrant of possession has been issued, we find absolutely no illegality in the judgment of the learned Single Judge dismissing the writ petition. The issue stands concluded by four fact finding authorities and the learned Single Judge. The finding of fact is not liable to be interfered with while exercising the power conferred under Article 226 of the Constitution of India until and unless it is demonstrated that a patent illegality has been committed by the authorities below. This appeal fails to demonstrate the same. We see no illegality in the reasons recorded by the authorities below. Learned Single Judge has rightly dismissed the writ petition. There is no scope for interference in the appeal and accordingly the same stands dismissed.

**(KRISHNA MURARI)
CHIEF JUSTICE**

**(ARUN PALLI)
JUDGE**

August 16, 2018
Pkapoor

Whether Speaking/Reasoned: YES / NO
Whether Reportable: YES / NO