

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

LPA-559-2019 (O&M)

Date of decision:- 14.03.2019

Satnam Singh

...Appellant

Versus

Financial Commissioner Appeals, Punjab (Revenue) and
others

...Respondents

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

Present:- Mr. Jaswinder Singh Grewal, Advocate,
for the appellant.

Ms. Amandeep Soni, Advocate,
for the caveator-respondent No. 2.

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KRISHNA MURARI, C.J. (ORAL)

Heard learned counsel for the appellant and
Ms. Amandeep Soni, learned counsel appearing for
respondent No. 2 on the strength of caveat.

This intra court appeal under clause X of the Letters
Patent is directed against the judgement and order
dated 31.01.2019 passed by learned Single Judge dismissing the
writ petition filed by the petitioner (appellant herein)
challenging the orders dated 19.03.2013 passed by Assistant
Collector, 1st Grade, Hoshiarpur as well as the appellate and
revisional orders dated 17.07.2013, 24.11.2016 and 24.05.2018
passed by Sub Divisional Magistrate-cum-Collector, Hoshiarpur;
Commissioner, Jalandhar Division, Jalandhar and Financial
Commissioner (Appeals), Punjab, respectively.

2. In an application for partition filed by
respondent No. 2 - Manohar Lal, vide order dated 01.08.2012,
mode of partition was determined by the Assistant Collector,
1st Grade, Hoshiarpur on the strength of pleadings and
statements made by the parties. The order was challenged by

filing an appeal before the Sub Divisional Magistrate-cum-Collector, Hoshiarpur on the same ground on which the writ petition was filed and the present appeal is based. The said appeal came to be dismissed on 17.07.2013. The appellant went up in revision under Section 16 of the Punjab Land Revenue Act, 1887 which was also dismissed by Commissioner, Jalandhar Division, Jalandhar vide order dated 24.11.2016. The appellant filed second revision before the Financial Commissioner (Appeals), Punjab which was also dismissed vide order dated 24.05.2018. We find that the disputed khasra number 3757/1, which is alleged to be a choe land, was to be divided between the appellant - Satnam Singh and respondent No. 2 - Manohar Lal in equal share. The same view has been affirmed by the Financial Commissioner (Appeals), Punjab by recording the following finding:-

"Perusal of the coloured map submitted and admitted by both the parties on its correctness clearly shows that the Assistant Collector 1st Grade has adhered to all fundamental principles of partition and in different parts of lands, land has been allocated as per the share of respective co-sharers. It was specifically asked from the counsel for the petitioner that as to what fault can be pointed out if fundamental principles of partition are kept in mind and to that he had no reasonable issue. However, the counsel for the petitioner reiterated his arguments and primarily based it on some family settlement. Undoubtedly family settlement needs to be given effect through proper orders. If there was a family settlement all parties should have agreed and family settlement must be given proper effect, subsequently. During the course of arguments the respondent virtually offered the part of the land which the petitioner has been looking for. However, the offer given by the respondent was not accepted. In the instant case the Assistant Collector 1st Grade has given due opportunity of being heard to all

the parties. The perusal of mode of partition also makes it clear as to how partition was to proceed and as per mode of partition the Kurah of Satnam Singh was to be made separately. It is also clear from the order of the Assistant Collector 1st Grade that Manohar Lal who is co-sharer has no possession. Obviously certain part of land equal to his share has to come from the land where other co-sharers have possession. The Collector and Ld. Commissioner have also seen the matter properly and have not found any fault in the order of the Assistant Collector 1st Grade. Owing to above reasons I do not see any illegality or irregularity in the orders passed by the lower courts and the present revision petition is dismissed."

3. The three fact finding authorities after assessing the pleadings and evidence have affirmed the mode of partition. The findings of fact are not likely to be interfered with in exercise of jurisdiction conferred by Article 226 of the Constitution of India and, thus, we find no fault with the view taken by the learned Single Judge for dismissing the writ petition.
4. The appeal is, thus, devoid of merits and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

14.03.2019
Amodh

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