

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

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Civil Writ Petition No.21496 of 2019

Date of Decision: August 16<sup>th</sup>, 2019

Mangal Singh

...Petitioner

Versus

The Financial Commissioner (Appeals) Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI**

Present: Mr. Balbir Singh Jaswal, Advocate  
for the petitioner.

**AUGUSTINE GEORGE MASI, J. (ORAL)**

Petitioner has approached this Court challenging the order dated 29.04.2019 (Annexure P-11) passed by the Financial Commissioner, Punjab, order dated 07.05.2018 (Annexure P-9) passed by the Commissioner, Jalandhar Division, Jalandhar, and order dated 23.08.2013 (Annexure P-5) passed by the Assistant Collector Ist Grade, Talwara, whereby final partition has been ordered and *sanad taksim* has been issued.

2. It is the contention of learned counsel for the petitioner that the petitioner had purchased some land in Khasra No.321 and some other portion in Khasra No.333. He contends that land in Khasra No.333 being nearer to the road was more valuable than the land in Khasra No.321, which was far away from the village *abadi*. He, thus, contends that the mode of partition dated 22.03.2013 (Annexure P-2) has been violated as it is specific and clear in condition No.2 that the loss, if any, after keeping the possession intact would be made good from the joint land. He, thus, contends that the petitioner having been allotted whole of his land in Khasra No.321 has been put to loss and thus the partition and pursuance thereto, *sanad taksim* cannot sustain and deserve to be set aside.

3. I have considered the submissions made by learned counsel for

the petitioner and with his assistance, have gone through the

impugned orders as also the mode of partition.

4. Condition No.2 of the mode of partition dated 22.03.2013 (Annexure P-2) which is a subject matter of consideration in this case reads as follows:-

*“2. Partition would be done by keeping possession intact. Loss if any is to be given from the joint land.”*

Perusal of the above would show that it refers to and provides that the possession of each of the co-sharers would be kept intact. “Loss, if any,” which has been referred to in the subsequent part of the condition is relatable to the area of the land. Nothing has been mentioned with regard to the quality of the land in any of the conditions of the mode of partition. Since the mode of partition is a document which is the guiding force for proceeding with the partition of the land and in none of the conditions, there is mention with regard to the quality of the land, the intent and the purpose for the use of word 'loss' can only be said to be relatable to the area of the land.

5. There is no dispute that the area of the land which has been allotted to the petitioner in Khasra No.321 is equal to the share he is entitled to and the plea which has been raised is relating to the quality of the land, which according to him is inferior as compared to Khasra No.333 is, therefore, not an issue which can be said to be wrongly considered and decided by the respondent-authorities in the impugned orders. The contention of learned counsel for the petitioner cannot be accepted in the light of the above as held vis-a-vis mode of partition which has determined between the parties and has attained finality.

6. The writ petition being devoid of merit stands dismissed.

**August 16<sup>th</sup>, 2019**  
*Puneet*

**(AUGUSTINE GEORGE MASIH)**  
**JUDGE**