

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

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Civil Writ Petition No.19831 of 2019
Date of Decision: September 26th, 2019

Shankar Lal

...Petitioner

Versus

Financial Commissioner (Revenue) Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Paramjit Singh Jammu, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 17.11.2006 (Annexure P-1) passed by the Assistant Collector 1st Grade, Rania-respondent No.4, whereby partition application filed by the respondents has been accepted and the possession of the petitioner has been disturbed by giving him inferior quality/non-agricultural land and the objections taken by the petitioner have not been considered, order dated 21.03.2007 (Annexure P-2) passed by the Collector, Ellenabad-respondent No.3 dismissing the appeal of the petitioner, order dated 09.07.2010 (Annexure P-3) passed by the Commissioner, Hisar Division, Hisar-respondent No.2 dismissing the revision petition as also the order dated 20.08.2018 (Annexure P-4) passed by the Financial Commissioner, Haryana, whereby the second revision preferred by the petitioner, has also been dismissed.

2. It is the contention of learned counsel for the petitioner that the petitioner was in possession of Killa Nos.16 and 17 of Rectangle No.411. His possession has been disturbed from Killa No.17 to Killa No.20/2 and 20/1. He contends that there is an archeological pillar, which has a length of

used by the petitioner and is uncultivable. He contends that the orders which have been passed by the authorities below and impugned herein are without taking into consideration this fact. Counsel further contends that the petitioner is a small farmer and would not be able to sustain himself.

3. I have considered the submissions made by learned counsel for the petitioner and with his assistance, have gone through the impugned orders.

4. Perusal of the impugned orders would show that initially the petitioner was proceeded against *ex parte* and it is thereafter when the case was remanded that he participated in the partition proceedings which were challenged by other co-sharers. The mode of partition was sanctioned vide order dated 17.11.2006. No objection whatsoever was filed by the petitioner to the *naksha bey*, because of which his plea of disturbing the possession has been rejected. Financial Commissioner, Haryana, has dealt with this aspect in detail with regard to the claim of the petitioner. As the petitioner has failed to file objections with regard to *naksha bey* because of the *ex parte* proceedings against him, the assertion of the counsel for the petitioner is unacceptable. Otherwise also, it is settled preposition of law that the partition of the land amongst the co-sharers is to be carried out by disturbing the possession keeping in view the quality of the land while partitioning the same. Records reveal that the petitioner has been given 7 kanals, 7 marlas of *nehri* land and 7 kanal of *barani* land in the partition proceedings, which clearly indicates that the partition has been carried out proportionately amongst the co-sharers giving them the land as per the quality and the respective share, which they are entitled to. It is not the case of the petitioner that the land which has been allotted to him is not as per his

share. It is only with regard to disturbing the possession, which the petitioner is agitating, which objection cannot be sustained. The orders as passed by the revenue authorities which have been impugned in the present writ petition cannot be said to be illegal or violative of any preposition of partition of land nor can it be said to be in violation of the mode of partition which has been settled between the parties.

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

September 26th, 2019

Puneet

(AUGUSTINE GEORGE MASIH)

JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No