

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH

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**CWP-18505-2018 &
CM-1631-CWP-2019**

Date of decision: 31.01.2019

SAWINDER SINGH

...PETITIONER

VS.

FINANCIAL COMMISSIONER AND OTHERS

..RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. P.S.Jammu, Advocate,
for the applicant-petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

CM-1631-CWP-2019

C.M. is allowed subject to just exceptions. Coloured site plan is taken on record as Annexures P-9 and P-10.

CWP-18505-2018

Petitioner has approached this Court impugning the order dated 29.04.2011 (Annexure P-1) passed by the Assistant Collector, Amritsar-II, order dated 04.09.2012 (Annexure P-2) passed by the Collector, Sub-Division Amritsar-II, order dated 22.03.2016 (Annexure P-3) passed by the Commissioner, Jalandhar Division, Jalandhar, order dated 17.08.2016 (Annexure P-4) passed by the Financial Commissioner, Revenue, Punjab-respondent No. 1, vide which the revision petition of the petitioner was dismissed and the order dated 21.03.2018 (Annexure P-5), vide which the Financial Commissioner, Revenue, Punjab-respondent No. 1 has also

rejected the review application preferred by the petitioner.

It is the contention of the learned counsel for the petitioner that while passing the order of partition, which has been upheld by all the authorities, the authorities have not been taken into consideration the fact that the possession of the parties has been disturbed. He further contends that respondents No. 5 and 6 have been granted 1 Kanal 9 Marlas more than their share in the partition whereas the petitioner has been given 2 Kanal 12 ½ Marlas less than their entitlement. He further contends that the order of Assistant Collector, Ist Grade, Amritsar-II dated 29.04.2011 (Annexure P-1) is based upon a compromise which has never been entered into between the co-sharers and, therefore, the partition, as ordered, cannot sustain. He, thus, contends that the impugned orders deserve to be set aside.

I have considered the submissions made by the learned counsel for the petitioner and with his assistance, have gone through the records of the case.

The order passed by the Assistant Collector, Ist Grade, Amritsar-II dated 29.04.2011 is indeed based upon a compromise which has been entered into between the parties. Although it has been asserted before the authorities below that there has not been a compromise between the parties but it is an admitted position that there are thumb impressions and signatures of all the co-sharers. None of the co-sharers have disputed the factum of they having put their thumb impressions and signatures on the compromise and petitioner has also not stated so categorically at any stage of the proceedings. Mere statement on the part of the parties could not be enough for annulling the Panchayatnama dated 09.03.2018, which has been produced before the Assistant Collector, Ist Grade, Amritsar-II and it is on

the basis of that agreement that the order has been passed. Rest of the assertions, in the light of the fact that there has been an agreement between the parties on the basis of which the partition has been ordered, would be of no consequence.

In view of the above, finding no merit in the present writ petition, the same stands dismissed.

January 31, 2019

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No