

CWP-29379-2017 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-29379-2017 (O&M)

Date of Decision: 15th July, 2019

Naginder Singh & others

...Petitioners

Versus

Assistant Collector 1st Grade, Patiala & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sherry K. Singla, Advocate for the petitioners.
Mr. Charanpreet Singh, Asstt. A.G., Punjab.
Mr. R.K. Shukla, Advocate for respondents No.2, 3, 9 and 10.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the various orders passed by the authorities below, whereby, grievance which has been highlighted by the petitioners is that three partition applications relating to different khewat/khatauni numbers of village Bishanpur Channa, Tehsil and District Patiala, on the basis of Jamabandi for the year 2011-12 was filed but these partition applications having different co-sharers have been clubbed-up and dealt with together, which has been objected by them but the said objection has not been accepted leading to the further finalization of the mode of partition and subsequent stages of the case.

On considering the submissions made by the learned counsel for the parties, it is apparent that the co-sharers in the partition applications are not the same although most of the co-sharers are common. The clubbing-up of three applications and the proceeding thereafter cannot sustain as it is without the consent of all the co-sharers. The impugned orders are, therefore, hereby

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set aside.

The case is remanded back to the Assistant Collector 1st Grade, Patiala, for fresh decision on each of the three partition applications to be dealt with separately unless consent is given by all the co-sharers including the petitioners for clubbing-up of the partition applications. It goes without saying that in case of consent having been given by all of the parties, the application where all co-sharers have given their consent may be clubbed up together and decided accordingly. If consent is not given by all the co-sharers, the applications to be considered and decided separately on merits. The Assistant Collector 1st Grade, Patiala, shall give an opportunity to all the co-sharers to file reply to the partition applications, if not filed earlier, and thereafter, proceed to decide the partition application in accordance with law. Endeavour may be made by the Assistant Collector 1st Grade, Patiala, to decide the same at an early date preferably within a period of one year from the date of appearance of the parties to the writ petition.

Parties are directed to appear before the Assistant Collector 1st Grade, Patiala, on 14.08.2019.

CM-6064-CWP-2018

In the light of the disposal of the main writ petition, no orders are required to be passed in the present application as the same has been rendered infructuous.

Disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

15th July, 2019

Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No