

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

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Civil Writ Petition No.28339 of 2018
Date of Decision: January 31st, 2019

Satnam Singh

...Petitioner

Versus

Financial Commissioner, Appeals, Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Jaswinder Singh Grewal, Advocate
for the petitioner.

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

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have approached this Court challenging the order dated 19.03.2013 (Annexure P-5) passed by the Assistant Collector Ist Grade, Hoshiarpur, vide which Girdawar was directed to prepare the Kurazat contrary and against the order of mode of partition dated 01.08.2012 (Annexure P-3). It has been asserted that the land which fell in the *choe* has to be given to the co-sharers equally but the Assistant Collector Ist Grade gave half of the land to the petitioner against the mode of partition and challenging these orders, petitioner has filed appeal before the Collector, which has been dismissed on 17.07.2013 (Annexure P-7) leading to the filing of a second appeal before the Commissioner, Hoshiarpur, which has also been dismissed on 24.11.2016 (Annexure P-9) followed by an order dated 24.05.2018 (Annexure P-11) passed by the Financial Commissioner in the revision petition preferred by the petitioner, whereby the same has also been dismissed. All these orders have been challenged by the petitioner primarily on the plea that the *choe* area has been given to him as well as respondent No.2, whereas it should

have been equally distributed amongst all the co-sharers. He, thus, contends that the orders as passed by the authorities below are unsustainable and deserve to be set aside.

2. Learned counsel for the caveator has stated that each of the co-sharers has been assigned and granted their respective shares in the property. The counsel has given a very fair offer to the petitioner to take the part of the *choe* allotted to respondent No.2 and leave the proportionate part of the land, which is in possession of the petitioner for respondent No.2. This offer was even given, it appears, before the Financial Commissioner (Appeals), Punjab, which was declined and similarly here also, the said offer has not been accepted by the counsel for the petitioner.

3. Having considered the submissions made by learned counsel for the parties and keeping in view the fact that each of the co-sharers has been given his/her respective share and there has not been any aspect, which has not been taken into consideration, rather it is an admitted position in record that the petitioner was in possession of excess share of the land prior to the partition but after the partition, some land he had to surrender so that respondent No.2 could be accommodated as he was not in possession of even an inch of land prior to the partition order having been passed.

4. The orders as passed by the authorities below are based upon the principles of partition, which cannot be faulted with. The assertions of the counsel for the petitioner, therefore, being devoid of any merit, do not call for any further consideration. The orders as passed by the authorities below are upheld and the writ petition dismissed.

January 31st, 2019

Puneet

AUGUSTINE GEORGE MASI(H)

JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No