

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

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**CIVIL WRIT PETITION NO.671 OF 2016
DATE OF DECISION: MARCH 20, 2019**

Umed Singh

.....Petitioner

VERSUS

State of Haryana and others

....Respondents

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

Present: Mr. S. S. Momi, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASI, J. (ORAL)

Petitioner has approached this Court, challenging the order dated 31.12.2013 (Annexure P-6) passed by the Financial Commissioner, Haryana, and the order dated 28.08.2009 (Annexure P-5) passed by the Commissioner, Hisar Division, Hisar, whereby the Commissioner, on an appeal preferred by respondent-Nanha @ Nahta, now represented by his legal representatives i.e. respondent Nos.5 to 18, allowed the same by setting-aside the order passed by the Assistant Collector Ist Grade dated 29.01.2014 (Annexure P-1), whereby the land in possession of the petitioner, which is asserted to be Gair Mumkin Rori, had been exempted from the partition, revision against which preferred by the petitioner stands dismissed.

It is the contention of learned counsel for the petitioner that the

gairmumkin rori could not be a subject of partition in the light of Section 4

of the Punjab Land Revenue Act, 1887, as it is not accessible to land revenue and, therefore, has to be exempted and rightly so it has been so done by the Assistant Collector Ist Grade, Charkhi Dadri. He contends that the orders passed by the authorities below, which are impugned herein, cannot sustain.

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

The mode of partition, which has been finalized between the parties by the Assistant Collector IInd Grade, Charkhi Dadri, dated 10.06.2003 (Annexure P-8) includes the total land, including the manure pit i.e. Gair Mumkin Rori. It is not in dispute that the manure pit was in possession of the petitioner but keeping in view the fact that no exception was carved out in the mode of partition with regard to the said manure pit and the fact that the said land is a subject matter of partition, it could not have been exempted from the partition proceedings. Merely because it is asserted by counsel for the petitioner that the manure pit is not accessible to the provisions of the Punjab Land Revenue Act, 1887, therefore, cannot be included in the partition, cannot be accepted. The sacrosanct document is the mode of partition, which admittedly has attained finality and there being no exception carved with regard to any piece of land, the land has also to be included in the partition. The order as passed by the authorities below, therefore, on this count cannot be faulted with.

As regards the contention of learned counsel for the petitioner that possession of the land has been disturbed, the said aspect also cannot be faulted with as it is apparent from the order determining the mode of

partition that not only the possession and type is to be kept in view but best and bad quality of land may also be given as per the share. That being so, there is bound to be change in possession of the land keeping in view the nature of the land and the area of the parties as per their respective shares.

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

March 20, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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