

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

Sr. No.121

**CWP-13592-2021 (O&M)
Date of decision : 26.07.2021**

Pawan

..... Petitioner

VERSUS

Financial Commissioner, Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Ms. Veena Hooda, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner was a party respondent in an application for partition. At the first instance, he raised an objection that the partition application cannot proceed as civil suit challenging the title of the applicants is pending. Vide order dated 24.08.2015 passed by the Assistant Collector, 1st Grade, Hansi, the matter was adjourned to enable the petitioner to produce relevant case law. Thereafter, the matter was taken up on 06.12.2017 and the objection was rejected on the ground that although, appeal against order of civil Court is pending, the appellate Court has not directed stay of partition proceedings. I am informed that the said order was subjected to an appeal before the Collector and the same was also dismissed. A copy of the order of the Collector is however not on record. Thereafter, sanad dated 30.09.2020 was issued, which was challenged by the petitioner before the Financial Commissioner by way of ROR dated 30.10.2020. The said ROR was disposed of vide order dated 11.01.2021 with a direction to the parties concerned to approach the Assistant Collector, 2nd Grade and try to settle their differences.

Subsequently, the petitioner entered into a compromise, but resiled therefrom.

Learned counsel for the petitioner has argued that the learned Financial Commissioner has erred in directing the parties to try and settle their dispute through a compromise. A question of title was involved in this case and thus, the partition proceedings should have been kept in abeyance till the decision of the title suit.

In law, the submission of learned counsel for the petitioner is well-founded. However, because of his conduct, the petitioner is barred from raising the said issue. This is, because, pursuant to order dated 11.01.2021 passed by the learned Financial Commissioner, the petitioner appeared before the Assistant Collector, 2nd Grade and settled the matter. Thereafter, he changed his mind and resiled from the same. This shows that the petitioner complied with the order of the learned Financial Commissioner and settled the dispute and impliedly waived his objection to the partition proceedings on the ground of question of title being pending. Merely because, he changed his mind later, would not entitle him to attack the order of the learned Financial Commissioner.

For the aforementioned reasons, the writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

26.07.2021

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No