

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.116

CWP-25272-2022 (O&M)
Date of decision : 02.12.2022

Suresh Kumar Chhoker

..... Petitioner

VERSUS

Financial Commissioner and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ajay Ghangas, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

CM-19125-CWP-2022

Application is allowed as prayed for.

Annexure P-10 is taken on record.

CWP-25272-2022

The petitioner had filed an application for partition. Notice thereof was issued pursuant to which respondent No.3 put in appearance. After a few dates, nobody appeared on her behalf and she was proceeded against *ex parte*. Partition proceedings were completed and *sanad* was issued. Aggrieved therewith, respondent No.3 filed a revision petition which was allowed vide order dated 03.10.2022 and the matter was remanded to the Assistant Collector, First Grade for conducting partition in accordance with law. Thus, the present writ petition has been filed.

Learned counsel for the petitioner has submitted that respondent No.3 chose not to be represented before the Assistant Collector. Counsel had been appearing on her behalf on a number of dates, but stopped appearing for no valid reason. Thus, the Assistant Collector was justified in proceeding *ex parte* against her. The Financial Commissioner was in error in setting aside

the *sanad* on the ground that initiation of *ex parte* proceedings against her was illegal.

A perusal of the impugned order shows that the Financial Commissioner has set aside the *sanad* on the ground of violation of mode of partition and not as is being submitted by learned counsel for the petitioner. It has been found that all the high value land has been given to one party i.e. the petitioner and this violates the mode of partition which specifically provides that there should be equitable partition.

It is the submission of learned counsel for the petitioner that the aforementioned finding is perverse.

The submission does not deserve to be accepted. Mode of partition is on record as Annexure P-2 and the same clearly states that while partitioning the land, frontage on the road shall be kept in mind. This implies that land of equal value must be equitably partitioned.

For the foregoing reasons, no interference is called for.

The writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

02.12.2022

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No