

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

(272)

CWP-27023-2018 (O&M)

Date of decision: - 25.05.2023

Dharam Singh and another**....Petitioners****Versus****Financial Commissioner, Punjab and others****.....Respondent****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Vikas Singh, Advocate
for the petitioners.

Mr. Karan Puggal, DAG, Punjab.

Mr. Ishan Gupta, Advocate
for respondents No.3 to 8
with Mr. Buta Singh son of Gurcharan Singh @ Charan
Singh/legal representative of respondent No.6, and
Mr. Joginder Singh son of Jang Singh/respondent No.7.

VIKAS BAHL, J. (ORAL)

1. This writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ of certiorari or any other writ or direction for quashing the impugned Sanad (instrument) of partition dated 13.06.2006 (Anenxure P-2) issued by respondent No.2 and order dated 29.08.2018 (Annexure P-6) passed by respondent No.1 whereby revision petition filed by the petitioners has been dismissed.

2. Learned counsel for the petitioners has submitted that the petitioners were wrongly proceeded against ex-parte in the partition proceedings and were never granted an opportunity to file a reply or to raise any objection. It is further submitted that the said proceedings

culminated into the passing of Sanad Takseem dated 13.06.2006 (Annexure P-2) and the petitioners had filed a revision petition before the Financial Commissioner, challenging said Sanad Takseem, which had illegally been dismissed vide order dated 29.08.2018 (Annexure P-6).

3. Learned counsel appearing on behalf of respondents No.3 to 8 has submitted that since it is the case of the petitioners that they were not duly served and were not granted an opportunity of hearing, thus, in order to bring about finality in the proceedings, they have no objection in case the present writ petition is allowed and the partition proceedings culminating into the passing of the Sanad Takseem dated 13.06.2006 (Annexure P-2) as well as the order dated 29.08.2018 (Annexure P-6) passed by the Financial Commissioner are set aside and the partition proceedings are started *de novo* with liberty to the petitioners to file a reply to the partition proceedings.

4. Keeping in view the above-said facts and circumstances, the present writ petition is allowed and the partition proceedings culminating into the passing of the order dated 13.06.2006 (Annexure P-2) is set aside and the order dated 29.08.2018 (Annexure P-6), vide which the revision petition filed by the petitioners has been dismissed, is also set aside with the following directions: -

- (i) Parties are directed to appear before the Assistant Collector 1st Grade on 31.05.2023.
- (ii) Petitioners and the other co-sharers, who have not filed application for partition, would be granted time to file reply to the application of partition and thereafter, the Assistant Collector 1st Grade would proceed with the partition

proceedings and would decide the same as expeditiously as possible.

5. It is made clear that this Court has not opined on the merits of the case and the competent authority would decide the matter independently, in accordance with law.

6. Pending application, if any, stands disposed of in view of the above.

May 25, 2023
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No