

2024:PHHC:108548-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(104)

LPA-1140-2022 (O&M)

Decided on : 22.08.2024

Raj Rani (deceased) through her LRs & othersAppellant(s)
Versus

Financial Commissioner (Revenue) Punjab & othersRespondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I. MEHTA**

Present: Mr.G.L.Bajaj, Advocate for the appellant (s).

G.S. Sandhawalia, J.(Oral)

1. Consideration in the present appeal is to the judgment of the Learned Single Judge dated 07.09.2022 passed in CWP-26770-2019 whereby the writ petition was dismissed.

2. The Learned Single Judge noticed that the two separate partition applications have been filed which process has been finalized. It was also noticed that on an earlier occasion, there was a remand order passed by the Financial Commissioner dated 10.02.2003 and fresh partition had been done thereafter. Resultantly, it was held that it is not the case of the appellants that procedure prescribed after the mode of partition had not been followed.

3. It is pertinent to notice that an application for partition was filed by respondent No.5 to 8, 12 to 16 and the predecessor-in-interest of respondents No.3 to 16 for land measuring 360 kanals 19 marlas. Similar application had also been filed for partition of land measuring 47 kanals 14 marlas and partition had been directed on 30.06.1997. The said proceedings were challenged by the present appellants which was firstly dismissed on 17.04.1998 by the Sub Divisional Officer, exercising the power of Collector,

Malout and the matter was taken to the Commissioner.

4. The appellants had not appeared before the Assistant Collector and they were proceeded against ex-parte and the appeal was dismissed on the ground that service of the appellants was not possible and therefore, proclamation had been done. The Financial Commissioner had set aside the said orders on 10.02.2003 (Annexure P-5) with the condition that there will be no change in the mode of partition without fresh order having been passed, while upholding the order dated 30.06.1997 passed by the Assistant Collector, 1st Grade, Malaut on 30.01.2006 (Annexure P-6) and the appeal filed by the present appellants were allowed and fresh partition was ordered.

5. After hearing both the parties and perusing the record, the Assistant Collector, 1st Grade, Malaut, on 04.04.2013 (Annexure P-8), maintained the earlier order on the ground that the mode of partition was not to be altered. The appeal filed was dismissed by the Collector, Sub-Division Malaut on 27.05.2015 (Annexure P-9) on the ground that *Sanad Takseem* had already been issued on 12.10.2001 and the possession had already been delivered by issuance of warrant of possession. The same finding had been recorded by the Commissioner in its order dated 11.05.2018 (Annexure P-10) and thereafter, the Financial Commissioner on 16.01.2019 (Annexure P-11) recorded a finding that the partition proceedings had been finalized after hearing both the parties and warrants of possession were also issued and possession had been transferred and that the present appellants were only trying to prolong the partition proceedings.

6. Counsel for the appellants has mainly tried to argue that the appellants have been prejudiced as they have not been given the land of equal value and no separate tuks had been made of the appellants which was causing prejudice to the appellants.

7. Neither the site-plan has been placed on record to show as to what portion of the land have been given to the parties and in the absence of any such *Naksha*, we are not in a position to appreciate the arguments raised by counsel for the appellants. The partition proceedings had been finalized after hearing both the parties and possession had been transferred to the parties as per the *Sanad Takseem*. Resultantly, we are of the considered opinion that there is no further scope for interference in the well reasoned order passed by the Learned Single Judge upholding the orders of the revenue authorities.

8. Accordingly, in view of the above discussion, the present appeal is dismissed in limine. All pending applications also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

22.08.2024
Sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	No