

2025:PHHC:088458



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

**CWP-16183-2025
Date of Decision: 17.07.2025**

Sukhdev Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. N.S. Gill, Advocate for
Mr. Munish Gupta, Advocate
for the petitioner.

Mr. Nirmaljit Singh Diwana, Senior DAG, Punjab.

HARSH BUNGER J. (ORAL)

Petition herein is, *inter alia*, for issuance of a writ in the nature of Mandamus for directing the official respondents to carry out the demarcation and consequently get removed the encroachment by the private respondents, as despite report dated 23.04.2025 (Annexure P-17), submitted by the Sub Divisional Magistrate, Garhshankar, respondents have encroached the petitioner's land.

2. In the present case, apparently, one Smt. Santosh Kaur filed an application seeking partition of the land. The said partition application was decided vide order dated 05.05.2011 (Annexure P-1) passed by the learned Assistant Collector, Ist Grade, Garhshankar.

2.1 Upon an appeal being filed by another co-sharer, the matter was remanded by the learned Collector, Garhshankar, vide order dated 17.09.2012 (Annexure P-2). Pursuant thereto, the learned Assistant Collector, Ist Grade, Garhshankar, again decided the partition application vide order dated 21.11.2014 (Annexure P-3). The appeal preferred against the said order was dismissed by the learned Collector, Garhshankar, vide order dated 05.01.2016 (Annexure P-4). A revision petition preferred against the order dated 05.01.2016 (Annexure P-4) was also dismissed by the learned Divisional Commissioner, Jalandhar, vide order dated 04.09.2019 (Annexure P-5).

2.2 Thereafter, Smt. Santosh Kaur preferred a revision petition (ROR-622-2019) before the learned Financial Commissioner, Punjab. Additionally, two other persons, namely Smt. Surinder Kaur and Smt. Bhajan Kaur, also filed separate revision petitions before the learned Financial Commissioner. All the three revision petitions were allowed vide common order dated 01.09.2023 (Annexure P-6).

2.3 The said order dated 01.09.2023 (Annexure P-6) was challenged before this Court by way of CWP No.24670 of 2023, which was decided vide order dated 09.01.2024 (Annexure P-7), whereby the order passed by the learned Financial Commissioner was set aside and the matter was remanded to the learned Financial Commissioner for fresh decision in the revision petitions.

2.4 Upon remand, the learned Financial Commissioner again dismissed the said revision petitions. Aggrieved against the same, three writ petitions, bearing CWP No.2282 of 2025, CWP No.1979 of 2025 and CWP No.4397 of 2025, were filed before this Court, which are stated to be

pending adjudication.

3. In paragraphs No.11 and 15 of the present writ petition, the following averments have been made:-

*“11. That it is apt mentioning here that pursuant to the partition order, the parties were put in possession of their respective shares, on dated 27.12.2019, in terms of the partition order dated 21.11.2014 (Annexure P-3) by the concerned Revenue Authority. Report regarding the proceedings qua possession is appended herewith as **Annexure P-9** for the kind perusal of this Hon’ble Court.*

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*15. That after the possession was handed over, in terms of partition order, the private respondents were not only interfering in the possession of petitioner but also blocked the passage to the land of petitioner and caused encroachment. Accordingly, grievance was raised before the Revenue Authorities and Ld. District Magistrate vide his order dated 04.11.2022 appointed concerned Naib Tehsildar Mahilpur (CRO) as Duty Magistrate and ordered removal of encroachment and also for getting registered FIR against the accused. Copy of order dated 04.11.2022 is appended herewith as **Annexure P-13** for the kind perusal of this Hon’ble Court.”*

4. It is the case of the petitioner that he is a Non-Resident Indian (NRI), and due to his non-availability in the village, although possession was handed over to him in terms of the partition order, the private respondents are allegedly taking undue advantage of his absence and are interfering with his possession from time to time. It is further stated that despite a complaint being lodged by the petitioner, no FIR has been registered against the alleged encroachers, although partial removal of the encroachment is stated to have taken place.

4.1 It is further stated that pursuant to an application submitted by

the petitioner, the learned Deputy Commissioner, Hoshiarpur had sought a report from the Sub Divisional Magistrate, Garhshankar, which was subsequently marked to the Naib Tehsildar, Mahilpur. However, vide letter dated 22.04.2025 (Annexure P-16) addressed by the Naib Tehsildar, Mahilpur to the Sub Divisional Magistrate, Garhshankar, it was observed that the petitioner may get the land demarcated and thereafter seek redressal of his grievance before the appropriate Court.

5. In the aforementioned circumstances, the present writ petition has been filed before this Court, seeking relief(s) as noticed hereinabove.

6. Learned State counsel, while referring to paragraphs No.11 and 15 of the writ petition, submits that possession in pursuance of the partition order was handed over to the petitioner, and it is only thereafter that the alleged encroachment occurred. In such circumstances, the petitioner is required to avail his remedies under law.

7. Heard.

8. It appears that the matter pertaining to partition proceedings is still pending adjudication before this Court in three writ petitions, i.e. CWP No.2282 of 2025, CWP No.1979 of 2025 and CWP No.4397 of 2025. However, in the meantime, possession of the land in question is stated to have been delivered to the respective co-sharers. The petitioner claims that after the possession was handed over to him; certain individuals have forcibly encroached upon a portion of his land during his absence, owing to his NRI status.

9. In my considered view, this petition involves disputed questions of fact, which would require leading of evidence, and the same can not be permitted before this Court.

10. Accordingly, the present writ petition is dismissed, however,

leaving it open to the petitioner to avail his other remedies, in accordance with law.

11. All the pending application(s), if any, shall also stand closed.

17.07.2025

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No