



LPA-2083 of 2017(O&M)

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

LPA-2083 of 2017(O&M)

Date of Decision: December 01, 2025

Balihar Singh

.... Appellant

Versus

Union of India and others

.... Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: - Mr. S.M. Sharma, Advocate
for the appellant.

Mr. Vipul Aggarwal, Advocate
for respondent No.1-UOI.

Mr. P. K. Prajapati, Advocate for
Mr. R. S. Madan, Advocate
for respondent No. 2.

Mr. Beant Singh Seemar, Advocate
for respondent Nos. 7, 8 (i) (ii) & (iii) &
15, 16, 20 to 23.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. The challenge in the present appeal is to the order dated 02.08.2017 passed by the learned Single Judge by which, the order passed by the Financial Commissioner, Punjab dated 14.03.2017 (Annexure P-11) has been upheld to the effect that the order of the Assistant Collector, Grade-I, Morinda dated 28.07.2014 partitioning the land measuring 422 Kanals 13 Marlas situated in Village Kajauli, Hadbast No.266, Tehsil Chamkaur Sahib, District Roopnagar

(hereinafter referred to as the 'land in question') between the share holders, has been set aside and the case has been remanded for fresh partition proceedings to the Assistant Collector, Grade-I, Morinda.

2. Learned counsel appearing on behalf of the appellant argues that the parties were in tandem to get the land partitioned keeping in view the fact that the same was being acquired so that after the acquisition of the land, there is no dispute as to which co-sharer is entitled for the compensation keeping in view the share of such co-sharers coupled with the acquisition proceedings initiated by the National Highway Authority of India.

3. Learned counsel for the appellant submits that the partition proceedings were undertaken in a manner required and as all the co-sharers were agreeable on the proposed partition, the same was finalized by the Assistant Collector Grade-I at the earliest by passing the order dated 28.07.2014.

4. Learned counsel for the appellant further submits that thereafter, some of the co-sharers, raised the grievance that they were not made party to the partition proceedings though they were also co-sharers, and the partition proceedings have been finalized in a haste without giving due opportunity to defend their possession hence, the partition so ordered by the Assistant Collector, Grade-I dated 28.07.2014 be set aside.

5. Learned counsel for the appellant submits that while passing an order on the such revision petition, the Financial

Commissioner vide order dated 14.03.2017 by recording certain reasons, set aside the partition proceedings and remanded the case back to the Assistant Collector, Grade-I so as to give due opportunity to all the co-sharers to present their claim qua the joint holding. Learned counsel for the appellant submits that the challenge to the said order dated 14.03.2017 passed by the Financial Commissioner at the hands of the appellant has been dismissed by the learned Single Judge, leading to the present appeal.

6. Learned counsel for the appellant argues that once, all the co-sharers, whose descriptions were available in the revenue record, were made party, no grievance can be raised by certain co-sharers, who were not named by the revenue authorities.

7. Learned counsel for the appellant further submits that once the process of partition was undertaken as per law, the same has been ignored by the Financial Commissioner while passing the impugned order dated 14.03.2017, which order has wrongly been upheld by the learned Single Judge.

8. Learned counsel appearing on behalf of the respondents submits that it had already come on record in the order passed by the Financial Commissioner dated 14.03.2017 that even before the summons were served, on the first date of hearing, the Naksha Aliph was passed without giving any opportunity to the co-sharers to object to the same. He further submits that the sons and daughters of the co-sharer Bachan Kaur, who had already died in the year 1996, were also

co-sharers, but were not even made party to the partition proceedings and therefore, haste was shown by the Assistant Collector, Grade-I in sanctioning the partition of the land in question even before ascertaining that who are the co-sharers. Without giving co-sharers due opportunity to present their claim qua the possession of the land to be partitioned, Naksha Aliph was passed which shows that no process envisaged under law was followed so as to give due opportunity to the co-sharers to bring their objection to the proposed partition. Hence, the order passed by the Financial Commissioner dated 14.03.2017, has rightly been upheld by the learned Single Judge.

9. We have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

10. At the cost of repetition, para 3 of the order passed by the Financial Commissioner dated 14.03.2017, is reproduced hereunder for ready perusal though the same has also been reproduced by the learned Single Judge in the impugned order:-

“Accordingly, an opportunity was granted to Balihar Singh respondent No.1, to present his case. His counsel presented application dated 06.12.2016 at Annexure P-9 of the file. In reply, the counsel for petitioner reiterated the grounds taken in revision petition, and submitted that petitioners along with the respondents No.1 to 12 are the joint owner in possession of land measuring 422 kanal 13 marlas. The Bachan Kaur daughter of Maghi Singh was owner in possession of the above said land to the extent of 39/1556 share. The

said Bachan Kaur was married to one Umrao Singh son of Nagina Singh and had four sons and two daughters from this marriage. Bachan Kaur died on 30.7.1996 leaving behind her four sons namely Govinder Singh, Sikandar Singh, Shermir Singh, Devinder Singh and two daughters namely, Surinder Kaur and Kamaljit Kaur. The respondent No.1 filed an application for partition of the above said joint Khata on 26.5.2014. That the respondent No.1 filed this application for partition without impleading the present petitioners, who were otherwise necessary parties of being heard, being the legal representatives of said Bachan Kaur. He further submitted that thus the whole proceedings of partition have been done by the respondent No.1 in an illegal and arbitrary manner in connivance with the lower revenue officers. That a perusal of the jimni orders shows that the case came up for hearing on 26.5.2014 when summons were issued to the respondents and the case was adjourned to 06.06.2014 awaiting service. And on dated 06.06.2014 when the case was fixed for service Naksha Aliph was passed without calling any objections and it was ordered to present "Tarika Takseem" on the next date i.e. 20.06.2014 without analysing the actual possession of the parties before partition as no "Aks Sajra: Map showing the possession of the parties before partition or after proposed partition was produced by the respondent No.1 along with the partition – application which is in violation of Section 111 of the Punjab Land Revenue Act, 1987. Further, as per jimni order dated 20.06.2014, in the presence of only respondent No.1, 3, 4, 5, 7 & 8 "Tarika Takseem" was sanctioned without giving any reason why respondent No.1 will get a

separate tag and all other co-sharers will get a joint unpartitioned tag. He argued that it was also ordered to present "Naksha Bey" and "Naksha Jeem" jointly without calling for any objections on "Naksha Bey" and the matter was adjourned to 04.07.2014. And on 28.07.2014 both "Naksha Bey" and "Jeem" were presented and sanctioned and the partition proceedings were completed and the final order dated 28.07.2014 was also passed on the same date. The petitioners came to know about the above said partition when on 02.03.2016 they approached the Land Acquisition Collector-cum-SDM Roopnagar for getting the compensation as some of the land forming part of this land is acquired by the National Highway Authority of India for development of roads. The petitioners were shocked that in the Assessment of Compensation their names were not included due to the illegal partition by respondent No.1. He prayed that the order of A.C. 1st Grade may kindly be set aside."

11. A bare perusal of the above would show that the reason which has been given by the Financial Commissioner is that on the date when the completion of service was to be seen, i.e. 06.06.2014, without giving any opportunity or explanation as to how the Naksha Aliph was called, the same was passed on the same date. Once, the service is complete, the parties are to be given an opportunity to present their claim qua their share, their possession and mode of partition is to be prepared thereafter. Without there being even service, on the first date, the Naksha Aliph was passed and nothing has come

on record as to who had ordered the preparation of Naksha Aliph even before the parties were served. It shows that the process envisaged for partition in a manner required was not followed.

12. Further, it is a conceded fact that all the co-sharers who had interest in the joint holding, were not made party or served before their land was also partitioned. That shows that the process of partition has not been undertaken in a manner required, hence, the reasons given by the Financial Commissioner to set aside the said partition to remand the case for fresh adjudication, has rightly been upheld by the learned Single Judge.

13. The argument which has been raised by learned counsel for the appellant is that there is a delay in raising the grievance with regard to the partition proceedings. It may be noticed that once the parties were not served or even made party to the partition proceedings, as and when they came to know about the partition, they raised the grievance, hence the ground of delay being brought into operation to save the partition proceedings cannot be allowed.

14. No other argument has been raised by learned counsel for the parties.

15. Keeping in view the fact that the parties are litigating since long i.e. 10 years, the Assistant Collector Grade-I is requested to decide the partition proceedings after observing due process of law within a period of six months from the next date of hearing. The

parties are directed to appear before the concerned Assistant Collector, Grade-I on 15.12.2025.

16. Any observation made in the order either by this Court or by the learned Single Judge or by the Financial Commissioner on the merit as to how the partition is to be done, will not be taken into account by the Assistant Collector, Grade-I who will decide the issue on the basis of the fact, and the objection/claim raised by the co-sharers.

17. Accordingly the present appeal stands disposed of.

18. Pending applications, if any shall also stand disposed of.

**(HARSIMRAN SINGH SETHI)
JUDGE**

**(ROHIT KAPOOR)
JUDGE**

**December 01, 2025
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No