



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

Date of Decision:30.09.2025

CWP No. 23810 of 2025

CWP No. 23911 to 23915 of 2025

Mohinder Singh alias Sarwan Singh Sandher through GPA Ramandeep Singh

....Petitioner

VS.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

**Present: Mr. Bahul Bunger, Advocate
for the petitioner(s)**

Mr. Aman Dhir, DAG, Punjab

JAGMOHAN BANSAL, J. (ORAL)

1. By this common order, CWP No. 23810 of 2025 and CWP No. 23911 to 23915 of 2025 are hereby adjudicated as common questions of law and facts are involved. With the consent of both sides, facts are borrowed from CWP No. 23810 of 2025.

2. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of:-

- (i) Final partition order dated 03.10.1994 (Annexure P-1)
alongwith Sanad Takseem passed by learned Assistant
Collector 1st Grade, Jalandhar;



- (ii) Order dated 20.09.2011 (Annexure P-4) passed by learned
SDM-cum-Collector, Jalandhar-I, Jalandhar;
- (iii) Order dated 13.07.2016 (Annexure P-6) passed by learned
Commissioner, Jalandhar Division, Jalandhar; and
- (iv) Order dated 29.01.2025 passed by learned Financial
Commissioner (Appeals), Punjab.

3. The petitioner is assailing aforesaid orders passed by Revenue Authorities. By order dated 03.10.1994, Assistant Collector 1st Grade, Jalandhar passed order of partition of land owned by petitioner and private respondents. The order was passed ex parte. The Assistant Collector 1st Grade, Jalandhar further issued Sanad Takseem. The petitioner preferred appeal against order of partition. The said appeal was dismissed vide order dated 20.09.2011. The petitioner further preferred revision before Commissioner, Jalandhar Division, Jalandhar who dismissed the same vide order dated 13.07.2016. The petitioner filed second revision before learned Financial Commissioner (Appeals), Punjab who dismissed the same on the ground that partition proceedings were conducted following the prescribed procedure and order was passed on 03.10.1994. The petitioner was notified through process servers and *Mustari Munadi* in the village. No objection was filed during the course of partition proceedings. Land was physically partitioned and possession was handed over to respective parties under Roznamcha No.183 for the year 1994-1995. There is no evidence of fraud, misrepresentation and procedural violation in the partition proceedings. Civil Suit filed by Gian Singh and Sarwan Singh as well as subsequent appeals and revision petitions stand dismissed. In view of orders of Civil Court and



Appellate Court, order of partition stands affirmed. There is no ground to disturb findings of Authorities below.

4. Mr. Bahul Bungar, Advocate submits that petitioner was totally unaware of partition proceedings which concluded in 1994. He was staying in U.K. with his father who passed away in 1995. The petitioner is a British Citizen. He came to know about order of partition in 2011 and thereafter he filed an appeal before Appellate Authority. The possession of land was never disturbed and even today co-sharers are in possession of land as per their possession prior to order of partition. Judgment of the Hon'ble Supreme Court in *Rabindra Singh vs. Financial Commissioner Cooperation, Punjab and others, 2008(3) RCR (Civil) 929* vindicates his stand. The petitioner was not served in accordance with law, thus, *ex parte* order dated 03.10.1994 is bad in the eye of law.

5. Learned counsel for the petitioner vide order dated 20.8.2025 was directed to file specific affidavit and evidence to the effect that petitioner was totally ignorant of orders passed in 1994. The petitioner was also asked to place on record orders passed by Civil Court and Appellate Court as discussed in impugned order. The petitioner has placed on record judgment of Civil Court as well as Appellate Court.

6. Learned State counsel submits that as per his instructions, the parties are in possession of land as per order of partition.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. From the perusal of record, it is evident that while passing order dated 03.10.1994, the Assistant Collector proceeded *ex parte*. The petitioner



was notified through process server and *Mustari Munadi* in the village. He was out of country, thus, he did not come to know about partition proceedings,. There were multiple co-sharers of the land in question. Gian Singh and Sarwan Singh, who were also co-sharers, preferred appeal against order dated 03.10.1994 before Appellate Authority. The Collector dismissed the appeal. They unsuccessfully preferred revision before Commissioner. The Commissioner passed order in 2003 and aforesaid co-sharers filed civil suit before Civil Court at Jalandhar in July' 2007. The said suit came to be dismissed vide judgment dated 16.01.2013. The respondents on whose behest order of partition was passed filed suit for declaration. The said suit was decreed by Civil Court. Gian Singh and his brother unsuccessfully preferred appeal before Appellate Court against decree passed in favour of defendants herein. Gian Singh and his brother preferred appeal against judgment dated 16.01.2013 passed by Civil Judge (Junior Division), Jalandhar whereby their suit was dismissed. The Appellate Court vide judgment dated 15.10.2014 dismissed appeal of Gian Singh and his brother.

9. The petitioner preferred appeal before Collector, Jalandhar-I against order dated 03.10.1994 after 17 years. The said appeal came to be dismissed vide order dated 20.09.2011. He preferred revision before Commissioner who dismissed the same vide order dated 13.07.2016. He filed second revision before Financial Commissioner (Appeals) who vide impugned order dated 29.01.2025 dismissed his second revision. The relevant extracts of order dated 29.01.2025 are reproduced as below:-

“6. I have heard and considered the submissions advanced by counsels for the parties and have also perused the documents/record available on file. The



petitioners have failed to establish any grounds that would warrant interference with the partition order passed on 03.10.1994. The partition proceedings were conducted following the prescribed procedure under the relevant legal provisions. The petitioners were duly notified through process servers and mustari munadi in the village. Despite these efforts, they failed to appear and contest the proceedings, resulting in the case proceeding ex-parte. The Naksha Urri, after being called and no objections being filed, was duly approved. The statements of the parties were recorded, and the proposed mode of partition was sanctioned. This procedure was in strict compliance with the law, and no procedural irregularities were evident. Furthermore, after the proposal was sent for verification by the revenue field staff, no objections were raised during the time allowed for filing objections. The final order of partition was passed on 03.10.1994 by the Collector, Jalandhar, and the land was physically partitioned and possession handed over to the respective parties under Roznamcha No. 183 for the year 1994-95. No appeal was filed by the petitioners against the sanctioned partition, which was duly implemented without challenge. The contentions of the petitioners regarding fraud, misrepresentation, and procedural violations in the partition process are not substantiated by the record. The civil suit filed later by Gian Singh and Sarwan Singh, as well as the subsequent appeals and revision petitions, were dismissed, and the findings of both the Civil Court and the Appellate Court have consistently affirmed that the partition was carried out in accordance with the law, without any fraudulent actions or procedural irregularities.

7. *Moreover, the arguments of the petitioners based on the failure to be notified adequately or being deprived*



of a fair opportunity to contest have been considered. However, the records show that all efforts were made to notify the petitioners, and the ex- parte nature of the proceedings was in line with the legal procedure when parties fail to appear despite proper service. The revision petitions filed before the Commissioner were dismissed on 13.07.2016, and the findings therein were sound. The revision petitioners have not shown any valid grounds for disturbing the partition order, which had been duly implemented and was subsequently confirmed by both the Civil Court and the Additional District Judge. In light of the above, it is clear that the partition has been carried out in accordance with the law, and no legal or procedural infirmities have been demonstrated that would necessitate interference.

8. Resultantly, the all six revision petitions are hereby dismissed. Copy of this order be communicated to the courts below. After making compliance file be consigned to the record room. This order be placed on all connected revision petitions.

Announced in open Court.”

10. From the perusal of above-quoted findings, it is evident that Financial Commissioner (Appeals), Punjab, Chandigarh has considered all the arguments of the petitioner. He has returned findings with respect to petitioner's claim that he was not granted opportunity and order was passed *ex parte*.

11. The order impugned herein was challenged by Gian Singh and his brother (co-sharers of petitioner) before Civil Court. In the suit, Gian Singh and his brother categorically pleaded that defendants, in connivance with officials of Court, procured fake report of service and got them proceeded *ex parte*. They also pleaded that impugned order dated



03.10.1994 was never implemented. Transaction was made only on paper.

The Civil Court in the light of pleadings framed following issues:-

- 1) *Whether plaintiff is entitled to the relief of declaration, as prayed for? OPP*
- 2) *Whether plaintiff is entitled to the relief of joint possession in the alternative, as prayed for? OPP*
- 3) *Whether plaintiff is entitled to the relief of permanent injunction, as prayed for? OPP*
- 4) *Whether suit of the plaintiff is maintainable? OPP*
- 5) *Whether suit of the plaintiff is within limitation? OPP*
- 6) *Whether suit of the plaintiff is bad by the principles of res judicata? OPD*
- 7) *Whether plaintiff has got no locus standi to file the present suit? OPD*
- 8) *Whether this Court has no jurisdiction to try the suit? OPD*
- 9) *Whether plaintiff has concealed material facts from the Court? OPD*
- 10) *Relief.*

12. The Civil Court after considering evidence led by plaintiff and respondents concluded that report roznamcha dated 02.02.1995 reveals that partition proceedings took place and suit land fell into share of respondents. Physical possession of suit land was delivered to them on the same day and since then they are in peaceful possession of their share. There is nothing on judicial file to prove that order dated 03.10.1994 was passed by Assistant Collector in violation of principles of natural justice. In execution, warrants of possession were issued and possession was delivered to defendants lawfully. Doctrine of merger would squarely apply as decision of Commissioner (Appeals) has attained finality. Once partition has become



final between the parties, question of joint possession did not arise between the parties. Partition proceedings have rightly been conducted and suit land was partitioned in accordance with the provisions of law.

The judgment passed by Civil Court was assailed before Appellate Court which upheld judgment of Civil Court. If this Court interferes with the order dated 03.10.1994 passed by Assistant Collector, it would amount to setting aside orders passed by Collector as Appellate Authority and Commissioner as Revisionary Authority on the petition of co-sharers i.e. Gian Singh and Sarwan Singh. Any order of interference would also amount to setting aside orders passed by Civil Court and Appellate Court. The orders passed by Revenue Authorities and Civil Courts on the applications/petitions of co-sharers are not under challenge. This Court cannot set aside those orders. The doctrine of merger, as noticed by Civil Court, is applicable. The order dated 03.10.1994 has merged in the orders passed by higher Revenue Authorities as well as Civil Court. Thus, there is no scope to re-open already concluded proceedings.

13. The petitioner is claiming that he was out of country, thus, was unaware of partition proceedings. He is claiming that physical possession was never disturbed, thus, factum of partition did not come in his knowledge. The Civil Court as well as Revenue Authorities have recorded categorical finding to the effect that land was actually partitioned and possession was handed over to respective parties. The petitioner vide order dated 20.08.2025 was directed to bring on record evidence to the effect that he was unaware of order of partition for 17 years. He has not placed on record any evidence to the said effect. In the absence of any concrete

evidence to the effect that he was unaware of partition proceedings for 17 years, this Court cannot condone delay of said long period. Had there been two owners of a piece of land, the situation could be little different whereas in the instant case, there were a number of co-sharers and other co-shares availed all possible legal remedies against order dated 03.10.1994 passed by Assistant Collector.

14. In the wake of above discussion and findings, this Court is of the considered opinion that instant petitions deserve to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

30.09.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	