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

**CWP-28485-2024 (O&M)
Date of Decision: 23.07.2025**

Raghubir Singh and others

....Petitioners

Versus

Financial Commissioner (Appeal), Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Vikas Mehsempuri, Advocate
for the petitioners.

Mr. Nirmaljit Singh Diwana, Sr. DAG, Punjab.

HARSH BUNGER, J. (Oral)

This petition has been filed under Articles 226 and 227 of the Constitution of India *inter alia* seeking issuance of a writ in the nature of Certiorari for setting aside order dated 28.08.2012, order dated 23.10.2012 (Annexures P-2 and P-4 respectively) passed by learned Assistant Collector 1st Grade, Rajpura, order dated 07.03.2013 (Annexure P-6) passed by learned Collector, Rajpura, order dated 07.05.2013 (Annexure P-8) passed by learned Commissioner, Patiala Division, Patiala and order dated 01.02.2024 (Annexure P-14), passed by learned Financial Commissioner (Appeals), Punjab.

2. Briefly, respondents No.5 to 17 filed an application seeking partition of joint land. It appears that the present petitioners raised a question of title, however, the same did not find favour with the Assistant Collector 1st



Grade, Rajpura, who vide order dated 28.08.2012 (Annexure P-2) approved *Naksha 'Urri'*.

2.1 Subsequently, the petitioners appears to have submitted another application stating that a civil suit was pending and the partition proceedings be adjourned *sine die*, however, the said application was also dismissed on 23.10.2012 (Annexure P-4) and it was directed to prepare the Mode of Partition.

2.2 Feeling dissatisfied with the order dated 23.10.2012 (Annexure P-4), the petitioners filed an appeal before the learned Collector, Rajpura, however, the same was dismissed vide order dated 07.03.2013 (Annexure P-6).

2.3 Still dissatisfied, the petitioners herein preferred a Revision Petition before the learned Commissioner, Patiala Division, Patiala, the same was also dismissed vide order dated 07.05.2013 (Annexure P-8).

2.4 Thereafter, the petitioners filed a second Revision Petition (ROR No.870 of 2013) before the learned Financial Commissioner (Appeals), Punjab, which was also dismissed vide order dated 01.02.2024 (Annexure P-14).

3. In the aforementioned circumstances the petitioners have filed the instant writ petition before this Court for seeking relief(s) as noticed hereinabove.

4. Heard.

5. In the present case, the petitioners raised a question of title in the partition proceedings, however, the learned Assistant Collector did not find any substance in the same and accordingly dismissed the said objections raised on behalf of the petitioners and proceeded with the partition proceedings. Even the appeal and revision preferred by the petitioners before



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the learned Collector and learned Commissioner were dismissed. Thereafter, the second revision (ROR No.870 of 2013) filed by the petitioners was also dismissed by the learned Financial Commissioner vide impugned order dated 01.02.2024 (Annexure P-14) by observing as under:-

*“5. I have heard Ld. Counsel for both the parties and gone through the record of lower Courts and particularly, order of Civil Court/Appellate Court, which both the parties are relying upon by interpreting that order in their favour. So far as order of permanent injunction is concerned, the concluding lines of the order and relevant to this case are, thus, **"....permanent injunction stands decreed and defendants are restrained from dispossessing the plaintiffs from khasra No. 310 (7-5) and 311 (0-18), except in due course of law...."** If possession of the petitioner is disturbed in the partition case, that is not violation of this order of Civil Court because, partition proceedings are due course of law to disturb possession of co-sharers. Secondly, relevant lines of para 21 of Appellate order of Additional District Judge says that **"....present appeal is accepted to the extent holding that the plaintiffs are co-sharers in the suit property as per their share on the basis of jamabandi Ex.PW1/X. It is made clear that actual share of plaintiffs and their possession will be subject to partition....."** The conclusion arrived at by the Additional District Judge does not bar partition proceedings, rather, it advises the co-sharers to resort to partition proceedings to get possession according to their share as per jamabandi.*

6. In view of the discussion above, the petitioners failed to prove pendency of any question of title, actually, the petitioner misunderstood the spirit of the orders of Civil Court/Appellate Court. The revision petition is accordingly dismissed being devoid of any merits.”

6. Neither before the revenue authorities nor before this Court, learned counsel for the petitioners has been able to show as to how the



question of title was involved in the partition proceedings. Rather, a perusal of the order passed by the learned Financial Commissioner would indicate that he has duly considered the judgments passed by the Civil Court which were placed before him and upon considering the same, he has come to the conclusion that so far as the prayer for injunction is concerned, the same was decreed by restraining the defendants in the suit from dispossessing the plaintiffs therein from Khasra Nos.310 and 311 except in due course of law.

7. It is noticeable from Annexure P-12 that the petitioners herein had filed a suit for declaration and permanent injunction wherein the petitioners had sought declaration that they are owners in possession of land measuring 8 bighas 3 biswas out of total land measuring 61 bighas 14 biswas comprised in khewat No.128 (as per *jamabandi* for the year 1959-60) being the legal heirs of Sh. Puran. However, vide judgment and decree dated 01.04.2016 (Annexure P-12), the suit for declaration was dismissed, however, the prayer regarding permanent injunction was decreed by restraining the defendants in the suit from dispossessing the plaintiffs therein (present petitioners) from khasra Nos.310 and 311 except in due course of law.

8. Even an appeal filed against the said judgment and decree dated 01.04.2016 (Annexure P-12) was only partly allowed vide judgment and decree dated 02.12.2020 (Annexure P-13) to the effect that the petitioners are co-sharers in the suit property as per their share, however, the actual share of the petitioners and their possession will be subject to partition.

9. In this view of the matter, once the Civil Court itself has returned the finding that the share of the petitioners as well as their possession will be subject to the partition, I find no merit in the plea raised by the petitioners that the partition proceedings were liable to be adjourned

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sine die as they had raised a question of title.

10. At this stage, another prayer has been made by learned counsel for the petitioners that initially the partition application was filed in respect of land measuring 61 bighas-10 biswas, however, subsequently the same was reduced to 45 bighas-15 biswas. The learned State counsel has produced the records of the case and upon perusal of the partition application available on the records, it is revealed that initially the partition application was filed in respect of land measuring 45 bighas-15 biswas, however, later on the partition application was amended by reflecting the land under partition to be 62 bighas-2 biswas. Therefore, there is no merit in the aforesaid submissions raised on behalf of the petitioners and the same is hereby rejected.

11. No other argument was raised.

12. Considering the totality of circumstances, I find no merit in this petition, resultantly the instant writ petition fails and the same is accordingly, dismissed.

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

23.07.2025*Himani***(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No