



**CM-1502-LPA-2026 in/and
LPA-694-2025 (O&M)**

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

(107+221)

**CM-1502-LPA-2026 in/and
LPA-694-2025 (O&M)**

Date of Decision : March 09, 2026

Anita Devi

.. Appellant

Versus

The Financial Commissioner Revenue (Rohtak) and others

.. Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Sandeep Singal, Advocate, for the appellant.

Mr. Sandeep Chhabra, Addl. Advocate General, Haryana.

Mr. N.K. Malhotra, Advocate, for respondents No. 5 to 15.

HARSIMRAN SINGH SETHI J. (ORAL)

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Present application has been filed for impleading legal representatives of respondent No.7 Krishna Devi, who unfortunately died during the pendency of the appeal.

Keeping in view the averments made in the application, which are duly supported by an affidavit, present application is allowed. Legal representatives of respondent No.7 Krishna Devi, the details of whom are given in para 3 of the application, are allowed to be impleaded in the present appeal and the amended memo of parties attached with the present application is taken on record.

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1. In the present Letters Patent Appeal, the challenge is to the order dated 11.02.2025 passed by the learned Single Judge in CWP No.5344 of 2022 by which, the order dated 15.05.2019 passed by the learned Commissioner, Rohtak Division, Rohtak, directing the Assistant Collector Ist Grade, Rohtak to re-initiate the partition proceedings after setting aside the earlier partition proceedings, has been upheld.

2. Learned counsel for the appellant argues that though, at the time when the application for the partition was moved by the appellant herein wherein, the respondents herein were impleaded as party, the notices were issued through normal routine process, through registered process as well through proclamation though qua the other methods of service i.e. simple notice and registered notice, there is no proof whether service was effected in respect of the respondents but the proclamation which was done in the village was good enough so as to proceed against the respondents ex parte and therefore, the order dated 15.05.2019 passed by the Commissioner, Rohtak Division, Rohtak remanding the case on the ground that the respondents were not served before finalizing the partition proceedings, is incorrect which fact has been ignored by the learned Single Judge while passing the impugned order dismissing the writ petition filed by the appellant.

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

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4. It may be noticed that once, the competent authority had issued three modes of service on the first date of hearing which included sending of simple notice and registered notice to the addresses of the respondents provided and the residence of respondents which is outside the village concerned where the property to be partitioned existed and concededly, such notices were not served upon the respondents. Merely because of a mode of way of service, i.e. proclamation, which was done in the village where the parties to be notified did not reside, further action to the partition proceedings could not have been entertained. There has to be a due application of mind qua the service of the respondents before proceeding against them ex parte. In case, only proclamation as a way of service would have been ordered to done when parties reside in the same village, it could have been a different scenario but once, a conscious decision was taken by the authorities concerned to serve the respondents through simple notice as well as registered notice which concededly were not received back as served or unserved, there has to be an application of mind whether, service has been upon the respondents or not and despite service whether, the respondents are not appearing or not so as to proceed against them ex parte.

5. Further, in the present case, after proceeding against the respondents ex parte, nothing has come on record to show that due procedure of law was followed before finalizing the partition proceedings.

6. On being asked to point out whether any mode of partition was prepared or whether the same was taken into consideration to arrive at a conclusion as to how the partition is to be done, learned counsel for the

appellant very fairly concedes that no such document has been brought on



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record.

7. In the absence of any such consideration given to due process of law before finalizing the partition of land in question, even if it is assumed that the same was being done by considering respondents as ex parte, the authorities were bound to follow the due procedure of law.

8. Keeping in view the totality of the circumstances, where a view has been taken by the Commissioner, Rohtak Division, Rohtak vide order dated 15.05.2019 to remand the case back for fresh adjudication of the partition application, which order has been upheld by the learned Single Judge, which orders have not been shown to be perverse either on facts or on law, no ground is made out for any interference by this Court in the facts and circumstances of the present case.

9. Accordingly, the appeal is dismissed.

10. Civil miscellaneous application pending if any, also stands disposed of.

**(HARSIMRAN SINGH SETHI)
JUDGE**

March 09, 2026
harsha

**(VIKAS SURI)
JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No