

152 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10601-2026 (O/M)

Date of decision : 08.04.2026

Nirmal Singh (since deceased) through his LRs and anrPetitioners

Versus

Financial Commissioner (Appeals), Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Anil Kumar Garg, Advocate
for the petitioner.

Mr. Navneet Singh, Additional A.G. Punjab.

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HARSH BUNGER, J. (ORAL)

1. Prayer in the instant civil writ petition filed under Articles 226/227 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari for setting aside the partition proceedings/ sanad takseem (Anenxure P-10).

1.1 A further prayer has been made for setting aside order dated 18.11.2025 (Annexure P-12), passed by learned Financial Commissioner (Appeals), Punjab , whereby revision petition filed by petitioners against impugned order dated 03.04.2017 (Annexure P-7; order dated 17.07.2017 (Annexure P-8) and order dated 25.08.2017 (Annexure P-9), passed by Assistant Collector 1st Grade, Morinda, District Rupnagar, has been dismissed.

2. Learned counsel for petitioners has raised only one submission that although the application for partition of joint land was filed in respect of land measuring 77 Kanal – 19 Marla; however, final

partition has been carried out only in respect of area measuring 17 Kanal – 3 Marla, which is without any justification. Accordingly, impugned partition proceedings/orders be set aside.

3. Heard.

4. It is not disputed before this Court that concerned Assistant Collector has sanctioned the mode of partition (Annexure P-5), which reads as under :-

“Note: The petitioner party, by appearing in this office, submitted an application on 19.12.2016 requesting that whereas they had filed a partition case for an area of 77 Kanals 19 Marlas, out of the aforesaid area, they now wish to get only the area measuring 17 Kanals 03 Marlas, comprised in Khasra Nos. 7//2(9-12) and 17//3(7-11), partitioned. Keeping in view the request of the petitioner party, the Mode of Partition is being prepared afresh.

1. The total area liable for partition situated at Kotla shall be 17 Kanals 03 Marlas.

2. The partition shall be carried out by maintaining possession; however, if required, the possession can be disturbed. During partition, valuable land and land abutting the path and road shall be given according to the share. Orchard land shall be partitioned according to the share.

3. A separate parcel shall be carved out for the petitioners.

4. The partition of the heirs of the respondents mentioned at serial no. 5 shall also be carried out simultaneously. A separate parcel shall be kept for the remaining parties.

5. The tress shall be kept subject to the application. However, in the event of possession being disturbed, the value of the trees shall be assessed at a sum of Rs. 20/-.

6. *If required, a path of two Karams width shall be provided to each parcel after making a common deduction.*

7. *The tubewell/motor shall be given to the party to whom it belongs. In case of mutual consent between both parties, the tubewell and motor can also be kept joint.*

8. *A deficiency or surplus of two (02) Marlas shall be ignored.*

9. *A copy of the Jamabandi shall be appended.*

10. *The land abutting the road shall be given to each party as per their share.*

11. *The land shall be given to each party as per their share, according to the classification of the land.*

12. *If any of the petitioners or respondents so desires, they shall place on the file a stamp paper of the value of Rs. 100/- for the preparation of the Sanad Taksim (Instrument of Partition) after the expiry of the appeal period.”*

5. A specific query was raised to learned counsel for petitioner as to whether petitioners have laid any challenge to aforesaid mode of partition, which was only regarding partition of area measuring 17 Kanal – 3 Marla.

5.1 In response to aforesaid query, learned counsel for petitioners has submitted that the said mode of partition has not been challenged by any party at any stage.

6. I am of the considered view that in the partition proceedings, mode of partition is backbone of partition and in case the parties have agreed for partitioning of only a particular area out of joint land, the same has to be taken as partition on the basis of consent and after the finalization of the partition proceedings, the co-sharers (who have

participated in partition proceedings) cannot turn around and say that the partition is partial in nature and, therefore, be set aside.

7. Keeping in view the above, I find no merit in the instant civil writ petition and the same is accordingly, dismissed.

8. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

08.04.2026
sjks

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No