

(2017) 02 P&H CK 0268
In the Punjab And Haryana At Chandigarh
Case No : 17509 of 1998

**Shaminder Singh and another Vs Financial Commissioner (Appeals-I),
Punjab, Chandigarh and others**

Date of Decision : 03-02-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Order 9 Rule 2](#)

Citation : (2017) 02 P&H CK 0268

Hon'ble Judges : Amit Rawal

Bench : SINGLE BENCH

Advocate : M.K.Dogra

Final Decision : Dismissed

Judgement

1. The present writ petition is against the impugned order Annexure P-4, whereby, the private respondents had filed ROR bearing No.216 of 1993-94 against the orders of Commissioner, Ferozepur Division, Ferozepur dated 23.02.1994, whereby, the order of Collector Sub Division, Ferozepur dated 28.07.1993 finalizing the naksha bey, had been upheld. The area under partition is 271 kanals 16 marlas situated in village Dohak, Tehsil Muktsar, District Faridkot.
2. The Registry has placed this case before the Court on the premise that owing to the fact that due non-filing of process fee, service upon respondents No.2 to 10 and 14 has not been effected.
3. I have gone through the orders passed by this Court from time to time indicating that even the process fees on some occasions had not been filed and the matter at one point of time was adjourned sine die and

thereafter, it was admitted. In my view, the writ petition at that time was liable to be dismissed as per the provisions of Order 9 Rule 2 of Code of Civil Procedure.

4. Be that as it may, the contention of petitioners herein and the applicants in the partition application, had been that as per the order of the Civil Judge (Junior Division), Muktsar, dated 27.09.1997 vide which all the three impugned orders of the lower revenue Courts passed in partition proceedings have been held null, void and illegal having not effect on the rights of Rachhpal Singh son of Isher Singh, whereas, on the contrary, the petitioners relied upon the judgment and decree dated 1.3.1994, whereby, the sale by Chand Kaur wife of Bishan Singh of her 3/5th share in the holding in favour of Shaminder Singh - Nikka Singh has been held to be valid and binding on the parties and have a right to seek partition.

5. In view of the Civil Court order dated 27.09.1997, all the three orders affirming naksha bey had been set aside. The Financial Commissioner ordered for entire holding of the co-sharers subject to partition and not a part thereof. The Assistant Collector Grade-I, has also been directed to carve out of a tak of 70 kanals 16 marlas for Rachhpal Singh son of Ishar Singh as per the decree of the Civil Court.

6. In my view, the order dated 3.04.1998 had already been implemented. The petitioners are not interested in pursuing the matter as the process fees has not been filed after giving number of opportunities. Once the aforesaid order had already been implemented, no cause of action survives in the present writ petition.

7. Accordingly, the writ petition stands dismissed being infructuous.