

(1)

2025:PHHC:067683



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

**CWP-10166-2025 (O&M)**

**Date of decision : 20.05.2025**

AVTAR SINGH (SINCE DECEASED) THROUGH LRs

...Petitioners

Versus

FINANCIAL COMMISSIONER (APPEALS) PUNJAB,  
CIVIL SECRETARIAT, PUNJAB, CHANDIGARH AND OTHERS

...Respondents

(2)

2025:PHHC:067684



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

**CWP-10518-2025 (O&M)**

AVTAR SINGH (SINCE DECEASED) THROUGH LRs

...Petitioners

Versus

FINANCIAL COMMISSIONER (APPEALS) PUNJAB,  
CIVIL SECRETARIAT, PUNJAB, CHANDIGARH AND OTHERS

...Respondents

(3)

2025:PHHC:067688



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

**CWP-14026-2025 (O&M)**

AVTAR SINGH (SINCE DECEASED) THROUGH LRs

...Petitioners

Versus

FINANCIAL COMMISSIONER (APPEALS) PUNJAB,  
CIVIL SECRETARIAT, PUNJAB, CHANDIGARH AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Puneet Sharma, Advocate  
and Ms. Gunjan Sachdeva, Advocate  
for the petitioners [in all cases].

Mr. Nirmaljit Singh Diwana, Sr. D.A.G., Punjab.

**HARSH BUNGER, J. [ORAL]**

1. This order shall dispose of CWP-10166-2025 titled as *Avtar Singh (since deceased) through LRs vs Financial Commissioner (Appeals) Punjab, Civil Secretariat, Punjab, Chandigarh and others*, CWP-10518-2025 titled as *Avtar Singh (since deceased) through LRs vs Financial Commissioner (Appeals) Punjab, Civil Secretariat, Punjab, Chandigarh and others* and CWP-14026-2025 titled as *Avtar Singh (since deceased) through LRs vs Financial Commissioner (Appeals) Punjab, Civil Secretariat, Punjab, Chandigarh and others*, as all these three cases involve common questions of law and facts.

1.1 Prayer in all the above-numbered writ petitions, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of *certiorari* for setting aside the order dated 15.03.2023 (Annexure P-5) passed by learned Financial Commissioner (Appeals), Punjab.

2. For the sake of convenience, the facts are being derived from CWP-10166-2025 titled as *Avtar Singh (since deceased) through LRs vs Financial Commissioner (Appeals) Punjab, Civil Secretariat, Punjab, Chandigarh and others*.

3. Briefly, respondent No.2 (Gursharan Singh) sought partition of joint land comprised in five khewats i.e. *khewat No.13(17K-7M)*, *14(10K-14M)*, *15(117K-16M)*, *43(12K-18M)* and *44(68K-2M)*, total

measuring 217K-08M, situated at Village Para, Tehsil and District Jalandhar.

3.1 According to the petitioner, the mode of partition was prepared by the learned Assistant Collector Ist Grade, Jalandhar-2 on 13.11.2009 and the same was sanctioned on 22.12.2009, which *inter alia*, contained the following clauses :-

*“i) Old possession of the parties to be kept intact (as far as possible)*

*ii) Prime land will be partitioned as per the share of the parties.*

*iii) Principal of consolidation will be kept in view.”*

3.2 It appears that the final order of partition came to be passed by the learned Assistant Collector 1<sup>st</sup> Grade, Jalandhar 2, on 27.04.2010.

3.3 The respondent No.2-Gursharan Singh challenged the final order of partition by filing appeal(s) before the learned Collector, Jalandhar-2, which came to be allowed on 14.12.2011; whereby, the matter was remanded to the learned Assistant Collector, for fresh decision.

3.4 Upon remand, the learned Assistant Collector, passed the final order of partition on 30.08.2013 (Annexure P-1).

3.5 The afore-said order dated 30.08.2013 (Annexure P-1) was again challenged by respondent No.2 by filing appeal(s) before the learned Collector, Jalandhar-2; however, the same was dismissed vide order dated 20.02.2014 (Annexure P-2).

3.6 Still aggrieved, respondent No.2 preferred revision petitions before the learned Commissioner, Jalandhar Division, Jalandhar; however, all the revision petitions were dismissed vide common order dated 08.08.2016 (Annexure P-3).

3.7 Being dissatisfied, respondent No.2 preferred five revision petitions (***ROR-905-2016, ROR-906-2016, ROR-907-2016, ROR-908-2016 and ROR-909-2016***) before the learned Financial Commissioner (Appeals), Punjab, which came to be allowed vide common order dated 15.03.2023 (Annexure P-5) whereby, the orders passed by the Revenue Authorities below, were set aside and the matter was remanded to the learned Assistant Collector Ist Grade, for passing fresh order of partition, keeping in view the observations made in the order and also in accordance with the sanctioned mode of partition.

3.8 In the afore-mentioned circumstances, the above numbered writ petitions have been filed before this Court, for seeking relief/s, as noticed here-in-above.

4. Heard.

5. In the present case, the partition proceedings were decided by the learned Assistant Collector, vide final order of partition dated 30.08.2013 (Annexure P-1), which has been further upheld by the learned Collector as well as learned Commissioner, vide order dated 20.02.2014 (Annexure P-2) and 08.08.2016 (Annexure P-3), respectively; however, the second revision petition preferred by respondent No.2-Gursharan Singh had been allowed by the learned Financial Commissioner, vide impugned order dated 15.03.2023 (Annexure P-5), primarily on the ground that respondent No.2 has not been allocated land on the main Kapurthala road and also that respondent No.2 has not been allocated land in Block-C, which is more valuable land. The relevant extract of the findings returned by the learned Financial Commissioner, reads as under :-

*“4. I have heard the Ld. Counsel for the parties. The Ld. Counsel for the petitioner mainly stated in his arguments that*

*the order in revision are against the fact on the file. That petitioner filed an applications for partition of land comprised in Khewat No.13(17K 7M), Khewat No.14(10K 14M), Khewat No.15(117K 16M), Khewat No.43(12K-18M), Khewat No.44(68K-2M) total measuring 217K-8M situate in the area of village Parha, Tehsil and Distt. Jalandhar. The application was contested and vide order dated 13.11.2009 mode of partition was prepared and sanctioned, thereafter on 22.12.2009. The mode of partition clearly shows that partition was to be done after keeping the old possession in fact and there is also a clause that prime land will be partitioned as per share. There is also a clause that principle of consolidation will be kept in view. Against this mode of partition appeal was preferred. That land situated at 3 places and is mentioned a BLOCK A, BLOCK B and BLOCK C. The land comprised in Block B and Block C is situated at Kapurthala-Kapurthala main road, partition papers have not been proposed as per mode of partition. Block A will be given to Gursharan Singh and others, Block B land given to Gursharan Singh, Avtar Singh as well as Gurbachan Singh etc. Block C total land in this Block will be given to Avtar Singh. Against this detailed objections were filed. The Tehsildar ignored objections and ordered partition on 27.04.2010. Against this appeal was filed before Collector (SDM) Jalandhar-II who remanded the case to AC 1<sup>st</sup> Grade-II to repartition the land, by keeping the possession. The prime land to be distributed as per shared objections of appellant be kept in view and parties be hear. Against this order no appeal was file. The case was transferred to the Naib Tehsildar-cum-AC 1<sup>st</sup> Grade, Kartarpur. Both the parties filed objections to proposed partition. The appellant relied on ruling 2002(2) RCR 519, b) 1999(3) RCR 216, c) 1999(1) PLJ 369 d) 1993 PLJ 107 and 2001(2) PLJ P.70. The respondent No.1 argued that land which has been allotted to the appellant is more valuable than one which has been allotted to the respondent No.1. Reference was made value of land as taken at the time of consolidation.*

*That the impugned order is void abinitio. That impugned order is passed in violation of the sanctioned MOP. All the above points as well as other points duly supported by case law was argue before the lower appellate court. The appeal of the petitioner has been wrongly and illegally dismissed. The order in revision passed by the lower appellate court. In a slipshod manner. That earlier remand order 14.12.2011 had not been kept in view while passing the appellate order. He further argued that both the orders in revision are null and void as they have been passed against the mandatory provisions of law and are thus liable to be set aside.*

5. *In reply the counsel for the respondent No.1 mainly argue that the respondent No.1 is NRI. He argue that land measuring 85K was given on lease. The partition case was filed in year 2006 and no steps were taken upto 2009. That as per Khasra Girdawari 1968 Girdawari is in the name of the respondent No.1. The respondent was given 6 annas/8 annas 1.6 64K 9M. The Naib Tehsildar has calculated rightly. Girdawaris are since 1968 and land belong to the respondents. The partition has been done as per principles of consolidation. The Assistant Collector Ist Grade, Kartarpur has partitioned the land rightly. There are three block A, B and C. The Appeals file by the petitioner have been rightly dismissed by the Collector. He further argue that the revision petitions filed by the petitioner are liable to be dismissed.*

6. *I have considered the arguments advanced by the Ld. Counsel for the parties and have gone through the record received in the case and papers brought on the file. I find that Mode of Partition was prepared on 22.10.2009. Final partition has been sanctioned by Assistant Collector Ist Grade on 30.08.2013. Appeal were dismissed by the SDM on 20.02.2014. Girdawaries of Respondents are in fact since 1968. Partition made as per the rules of consolidation. There is no merit in the revision petitions. Lower Court's order dated 30.08.2013 and 20.02.2014 are upheld and revision petition are dismissed."*

6. During the course of hearing, learned counsel for the petitioner has been unable to refute the fact that respondent No.2 has not been allocated any land on main Kapurthala Road and also in Block 'C'. It is also not disputed that land, comprised in Block 'C' is more valuable.

6.1 When the above extracted findings returned by the learned Financial Commissioner are seen in the light of the provisions contained in the Mode of Partition, it would be apparent that the non-allocation of land to respondent No.2 on the main Kapurthala Road and also in Block 'C', which is more valuable, is clearly in violation of the sanctioned Mode of Partition, which provided that the prime land will be partitioned as per the share of the parties.

7. In view of the above, since respondent No.2 was not allocated land on the main Kapurthala Road and also in Block 'C', which is more valuable, therefore, the final partition is not in consonance with the sanctioned Mode of Partition and therefore, the same has rightly been set aside by the learned Financial Commissioner and the matter has been remanded for fresh decision.

8. At this stage, learned counsel for the petitioner has tried to justify the partition by stating that the parties have been allocated land as per its value, which was determined during the operation of consolidation of holdings in the village.

8.1 I have considered the afore-said plea, however, the same is totally misplaced as it is well settled that the partition of joint holding is to be carried out as per nature, quality and value of land as existing on the date of submission of application for partition and not by considering the valuation assigned to the land parcels at the time of consolidation operation in the village, which may have been carried out more than 40 years ago.

9. Keeping in view the above discussion, I find no illegality or perversity in the findings returned by the learned Financial Commissioner, resultantly, all three above-numbered writ petitions fail and the same are accordingly dismissed.

9.1 However, considering the fact that the partition proceedings are pending for the last more than 15 years, I deem it appropriate to direct that the partition proceedings be concluded by the learned Assistant Collector Ist Grade, within a period of six months from today, subject to any legal impediment.

10. All pending applications (if any) shall also stand closed.

11. A photocopy of this order be placed on the files of other connected cases.

**May 20, 2025**  
gurpreet

**(HARSH BUNGER)**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No