

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:093294



CWP-25217-2021 (O&M)

AMANDEEP SHARMA @ AMANPREET KAUR

...Petitioner

Versus

FINANCIAL COMMISSIONER (REVENUE) PUNJAB AT
CHANDIGARH AND OTHERS

...Respondents

2025:PHHC:093277



CWP-25219-2025 (O&M)

Date of decision : 12.03.2025

0AMANPREET KAUR @ AMANDEEP SHARMA

...Petitioner

Versus

FINANCIAL COMMISSIONER PUNJAB AT CHANDIGARH
AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Raman Mohinder Sharma, Advocate
for the petitioner.

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

Mr. Tushar Sharma, Advocate
for respondents No.5 and 8.

HARSH BUNGER, J. [ORAL]

CM-2415-CWP-2025

This is an application under Order 22 Rule 4 CPC read with
Section 151 CPC for impleading the legal representatives of
Mr. Bhola Singh (respondent No.8).

For the reasons stated in the application, the same is allowed subject to all just exceptions. Amended 'Memo of Parties' is taken on record.

Registry to take steps accordingly.

CWP-25217-2021 and **CWP-25219-2021**

1. This order shall dispose of **CWP-25217-2021** as well as **CWP-25219-2021** as both the present writ petitions arise out of partition proceedings in respect of two separate khewats i.e. *khewat No.456/439* measuring *71 kanal-9 marlas* and *khewat No.454/437* measuring *23 kanal-8 marlas* (as per jamabandi for the year 2010-2011) situate at village Mohar Singh Bhadaur, Tehsil Tappa, District Barnala.

2. **CWP-25217-2021** relates to *khewat No.456/439* measuring *71 kanal-9 marlas* and **CWP-25219-2021** is in respect of *khewat No.454/437* measuring *23 kanal-8 marlas*. However, for the sake of brevity, the facts are being taken from **CWP-25217-2021**.

3. Both the above-referred writ petitions came up for hearing on 13.12.2021, when the following order was passed :-

“The petitioner is aggrieved because her challenge to Sanad issued in the course of partition proceedings has failed. Revision petition preferred before the Financial Commissioner has been dismissed vide impugned order dated 17.08.2021.

A perusal of the order of Financial Commissioner shows that the only point raised before him was that proper opportunity of hearing was not granted during the course of partition proceedings. This argument has been rejected by referring to the record and a finding has been returned that despite grant of more than adequate opportunities, no objections were raised to the various Nakshas.

Learned counsel for the petitioner has not been able to show that the observations aforementioned are erroneous. His

*submission is that the petitioner was a minor and this fact was known to respondent No.5 as is evident from a civil suit filed by him. Yet, he did not take steps to get a guardian ad litem appointed. Thus, proceedings are vitiated. Reliance has been placed upon a Division Bench judgment in **Gurpreet Singh** vs. **Chatterbhuj Goel**, 1991(2) RRR 504.*

Notice of motion to respondents No.1 to 8 only.

Ms. Anu Pal, DAG, Punjab accepts notice on behalf of respondents No.1 to 4 and waives service. Respondents No.5 to 8 be served in the ordinary manner.

Adjourned to 27.06.2022.

Meanwhile, implementation of the Sanad shall remain stayed.

To be heard along with CWP No.25219 of 2021.”

3.1 A perusal of the above extracted order would reveal that so far as the challenge to the partition proceedings and also the plea that no opportunity of hearing was granted, the same were rejected by the learned Financial Commissioner by referring to the record and a finding has been returned that despite granting more than adequate opportunities, no objections were raised to various *nakshas*; accordingly, the Co-ordinate Bench held that the petitioner has not been able to show that the observations as referred above are erroneous. However, notice in these writ petitions were issued only on the plea raised by the petitioner that she was a minor at the time of filing of the partition application and therefore, without taking steps as regards the appointment of guardian *ad litem*, the proceedings were vitiated.

4. On the afore-said limited issue, respondent No.5-Balwinder Singh has filed a short reply.

5. Heard.

6. In the present case, the only question which arises for consideration before this Court is as to whether the partition proceedings are vitiated on account of non appointment of guardian *ad litem* for the petitioner as she claimed to be a minor on the day of filing of partition application i.e. 04.01.2016.

6.1 It is the pleaded case of the petitioner that she was born on 24.01.1988 and therefore, she attained the age of majority on 24.01.2016. It is contended that the partition application was filed by respondent No.5-Balwinder Singh on 04.01.2016 i.e. prior to the date when petitioner attained majority; therefore, without appointing a guardian *ad litem* for the petitioner, the partition proceedings could not have been carried on against the petitioner.

7. I have considered the afore-said submission made on behalf of the petitioner and it is observed from Annexure P-1 that although, the partition application(s) is/are stated to have been filed on 04.01.2016; however, the same came to be registered as Case Nos.238/P and 237/P on dated 02.05.2016. Even the first order passed on the afore-said partition applications is of dated 10.05.2016 (Annexure P-5), when notices were issued to the parties. That apart, on *Sanad Takseem* as well (Annexure P-17), the date of filing is mentioned as 02.05.2016.

7.1 Apparently, respondent No.5-Balwinder Singh may have submitted the partition applications on 04.01.2016; however, the same came to be registered and heard only on 02.05.2016 and 10.05.2016, respectively; which is much beyond the date when the petitioner had attained majority. Once, the date on which the partition applications were registered i.e. 02.05.2016 and the date on which, the parties in the partition applications were summoned by issuing notices i.e. on dated 10.05.2016;

the petitioner had already attained majority; therefore, there was no occasion for impleading guardian *ad litem* for the petitioner. Consequently, the partition proceedings cannot be said to have been vitiated on the ground of non-appointment of guardian *ad litem* for the petitioner.

8. In view of the above, I find no merit in the instant writ petitions and the same are accordingly, dismissed.

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

10. A photocopy of this order be placed on the file of another connected case.

March 12, 2025
gurpreet

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No