

(2012) 09 P&amp;H CK 0318

**High Court Of Punjab And Haryana At Chandigarh****Case No:** Civil Writ Petition No. 278 of 2010 (O and M)

Manjit Singh

APPELLANT

Vs

Financial Commissioner,  
Revenue, Punjab and OthersRESPONDENT

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**Date of Decision:** Sept. 13, 2012**Hon'ble Judges:** Ranjit Singh, J**Bench:** Single Bench**Advocate:** V.K. Sandhir, for the Appellant; B.B.S. Teji, Addl. A.G. Punjab, for the State and Mr. G.S. Nagar, Advocate, for the Respondent

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**Judgement**

Ranjit Singh, J.

The petitioner claims to be a co-sharer to the extent of half share in total land measuring 285 kanals 13 marlas. He filed an application for partition of this land before Assistant Collector 1st Grade, who invited objections from the parties and suggested mode of partition. The petitioner claims to have filed objections that land measuring 3-1/2 killas, which was abutting metalled road, has more value and, therefore, the same should be partitioned between the parties equally. The said objections were statedly dismissed on 23.11.2004. As per the petitioner, this was done casually. Against this order, he filed an appeal which was also dismissed. Thereafter, he challenged this order before Commissioner, Jalandhar Division by way of revision petition, which was also dismissed on 28.12.2006. All these three orders thereafter were challenged before the Financial Commissioner and having remained unsuccessful there, the petitioner has approached this Court. The only grievance raised in the petition is that the land abutting the road, which was of more value, ought to have been divided equally between the co-sharers. In response, counsel for the respondents would point out that the petitioner never agitated to the mode of partition where it was agreed that the possession of the parties would be kept intact. The counsel for the petitioner, on the other hand, has shown me some documents to indicate that he had filed an application objecting to the mode of partition, but the same was not considered and ignored. This, being a

dispute in facts, cannot be appropriately determined in the writ petition. Accordingly, the case is remanded back to the Financial Commissioner, who may call for the record of the case file and examine the same. If it is found that the application has been moved but the same was left unattended or not considered, the Financial Commissioner would be at liberty to pass any appropriate order on the basis of such a record, if available. On the other hand, if application objecting to the mode of partition is not found in the record of the case, then Financial Commissioner may not interfere with the impugned order and the same then can be allowed to sustain.

2. The writ petition is accordingly disposed of. The parties, through their counsel, are directed to appear before the Financial Commissioner on 25.9.2012.