



**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA**

**CWP No. 2898/2026
Decided on: 16.03.2026**

Raj Kumar

...Petitioner

Versus

State of H.P. & Ors.

....Respondents.

Coram

Ms. Justice Jyotsna Rewal Dua, Judge.

Whether approved for reporting?¹

For the petitioner:

**Mr. Atharv Sharma, Advocate
vice Mr. Ganesh Barowalia,
Advocate.**

For the respondents:

**Mr. Y.P.S. Dhaulta, Additional
Advocate General, for
respondents No.1 to 5.**

Jyotsna Rewal Dua, J.

Learned counsel for the petitioner submits that no relief has been prayed against respondent No.6 or his successors, therefore, the said respondent be deleted from the array of parties. Prayer is accepted.

Notice. Mr. Y.P.S. Dhaulta, learned Additional Advocate General, accepts notice on behalf of respondents No.1 to 5.

¹Whether reporters of the local papers may be allowed to see the judgment? yes



Looking to the prayer made in this writ petition, submissions made by learned counsel for the parties and the order being passed hereinafter, reply is not required from the appearing respondents. The matter has accordingly been heard at this stage.

2. This writ petition has been filed for the grant of following substantive relief: -

“Issue a writ of mandamus directing the respondents to conclude the partition proceedings pending before Assistant Collector, Kangoo in Partition Case No.2 of 2022 (Tikka Lahar Nauhang) strictly in accordance with directions of the Hon’ble Court in CWP No. 634/2006 (Annexure P-2) as upheld in LPA Nos. 122 and 123 of 2008 (Annexure P-3) and to conclude the partition proceedings strictly in terms thereof within a time bound period as may be fixed by this Hon’ble Court.”

3. Heard learned counsel for parties and considered the case file.

4. One of the Co-sharers of the land parcels-subject matter of partition proceedings, Sh. Mehar Singh, moved two separate applications for partition of the joint land owned by him along with other co-owners, including the present petitioner. The Assistant Collector 1st Grade framed the mode of partition on 23.05.1992. The final partition was sanctioned on 02.09.1993 and 22.04.1995, respectively in



the two cases. The said orders were assailed in appeal by some of the co-sharers. The matter was ultimately decided on 05.05.2006 by the Financial Commissioner (Appeals), Himachal Pradesh, in Revision Petition Nos. 435 and 436 of 1996, as under: -

“Having gone through the record and perused the written arguments filed by the counsels for the petitioners and respondents. I am of the view that in not partitioning the irrigated land and land that abuts the roadside equitably, gross injustice has been caused to the present petitioners. The revision petition is accepted and the case is remanded to the Assistant Collector, 1st Grade with the directions that classification of land and valuation of land may be kept in view while finalizing the partition proceedings to ensure that justice is done to both parties.”

Mehar Singh Vs. State of H.P. & Ors.² and ***Mehar Singh Vs. State of H.P. & Ors.***³ preferred by Sh. Mehar Singh were dismissed on 28.08.2008. Operative portion of ***Mehar Singh***³ reads as under: -

“The appeal was rejected by the Additional District Magistrate exercising the powers of Collector on 1.3.1995. The Collector, Hamirpur has recorded findings contrary to the record. He has observed that there was no objection by the parties with regard to possession of any piece of land. The private respondents had raised the objections on 22.5.1993. The sum and substance of the objections was that the partition has not taken place in accordance with the mode of partition drawn on 23.5.1992. The

² CWP No. 633/2006 decided on 28.08.2008

³ CWP No. 634/2006 decided on 28.08.2008



objections filed by the private respondents are at page 97 of the record. The Collector ought to have taken into consideration the objections on the file, if any, while deciding the appeal. The Collector, Hamirpur had to take into consideration whether the land has been partitioned proportionally keeping in view the classification of land i.e. Nehri Doem and land abutting the road side. He has rejected the case of the private respondents for proportionate share and Nehri Doem land on the ground that they had been allotted whole of abadi land. The Commissioner in his order dated 22.8.1996 had observed that since the parties had not assailed the mode of partition, the order passed by the Collector is upheld. It may be true that mode of partition dated 23.5.1992 has not been assailed by the parties, however, the partition was to take place strictly as per mode of partition drawn on 23.5.1992. The partition cannot take place in deviation of mode of partition. The parties in fact, as noticed above, had objected in their statements recorded on 29.3.1993 and have objected to the manner in which the partition has taken place. The learned Financial Commissioner (Appeals) on the basis of the material brought on record as well as taking into consideration the written arguments filed by the parties came to a just conclusion that the irrigated land and the land abutting road side were to be partitioned equitably. Nehri Doem is a valuable piece of land and the value of the land abutting the road side is also higher. The endeavour has to be made by the revenue official/officers that every party gets proportionate share in the land.

In view of the observations made hereinabove, there is no merit in the writ petition and the same is dismissed. The Assistant Collector 1st Grade is directed to carry out the partition strictly as per mode of partition drawn on 23.5.1992 within a period of 10 weeks. There shall be no order as to costs.”



Mehar Singh Vs. State of H.P. & Ors.⁴ and
Mehar Singh Vs. State of H.P. & Ors.⁵ preferred by Sh.
Mehar Singh against the above decisions were dismissed on
28.07.2021 with following operative directions: -

“25. We may place it on record that the appellant has not been able to answer the pointed query from this Court that what prejudice was caused to the appellant by the impugned judgment or order of Financial Commissioner, when the mode of partition suggested between the parties was neither modified nor set aside. The substantive rights of the parties were not at all affected. It was only a direction to the Assistant Collector 1st Grade to finalize the partition proceedings strictly as per mode of partition drawn on 23.05.1992. The appellant has not been able to show that, in fact, the final partition drawn on 24.04.1994 was strictly in accordance with the mode of partition. It is trite that there cannot be any deviation from the mode of partition suggested between the parties having attained finality and the final partition has to follow such mode in letter and spirit.

26. Before parting, we consider necessary to place it on record that present case is the classical example which sets out tactics being adopted by litigants to prolong the life of litigation beyond reasonable limits with a purpose to deny the adversary benefits of his lawful due. This litigation is almost thirty years old and still without any result. Generation has passed, but it could not enjoy the fruits of their own property. Notwithstanding the fact that the Financial Commissioner (Appeals) passed order dated 5.5.2006 and directed the Assistant Collector 1st Grade only to draw the final partition by taking into consideration

⁴ LPA No. 122/2008 decided on 28.07.2021

⁵ LPA No. 123/2008 decided on 28.07.2021



classification and value of land, the appellant preferred to assail it before writ court and further in appeal before this Court and the process has consumed more than fifteen years.”

Pursuant thereto, the mode of partition was prepared on 28.05.2024 (Annexure P-4). The legal heirs of Sh. Mehar Chand assailed the aforesaid order before the Sub Divisional Collector, Nadaun, District Hamirpur. The appeal was allowed on 23.04.2025, primarily on the ground that Sh. Mehar Chand/his legal heirs had not been afforded due opportunity before passing the order dated 28.05.2024 and that one specific Khata No. 69 had also not been included in the partition proceedings. The petitioner laid challenge to the order dated 28.05.2024 unsuccessfully in **Raj Kumar Jaswal Vs. State of H.P. & Ors.**⁶ Learned counsel for the petitioner submitted that the aforesaid order dated 23.04.2025 has attained finality; Subsequent thereto, the mode of partition was drawn on 24.07.2025; The instrument of partition has also been prepared, however, the partition proceedings have still not been concluded.

Keeping in view the pleadings and the submissions made by learned counsel for the petitioner with

⁶ CWP No. 7986/2025 decided on 15.05.2025



respect to the proceedings of the case in hand, as well as the nature of the relief claimed herein vis-a-vis the age of the partition case, which is stated to be still pending, it is deemed just and proper to dispose of this writ petition with directions to the respondents, more particularly respondents No. 3 to 5, to ensure that the partition proceedings in reference are taken to their logical conclusion, in accordance with law, as expeditiously as possible, preferably within six months from today. It is made clear that while passing this order, merits of the matter have not been gone into. The order has been passed keeping in view the age of partition proceedings and its stated pendency even as on date.

The instant petition to stand disposed of with above directions. Pending miscellaneous applications, if any, shall also stand disposed of.

Jyotsna Rewal Dua
Judge

16th March, 2026
(R.Atal)