In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 2022 of 2000

Date of Decision: 4.2.2015

Prabhu Ram and Others

... Petitioner(s)

Versus

The State of Haryana and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Rajan Gupta.

Present: Mr. G.C.Dhuriwala, Advocate
for the petitioner(s).

Mr. Saurabh Mohunta, DAG Haryana
for respondents No.1 to 3.

Mr. Dinesh Sharma, Advocate
for respondent No.4.

<u>Rajan Gupta, J.</u>

Petitioner has impugned order of the Financial Commissioner, Haryana, operative part whereof reads as under:

> *"I have heard the learned counsel at length and gone through the record. The finding to the effect that no area of the respondent No.2 is surplus is a finding of fact and a finding of fact cannot be set aside by F.C. Vide ruling cited as Shish Pal Singh Versus F.C., Punjab 1972 RLR 451. Moreover, a concurrent finding of fact cannot be corrected in revision vide rulings cited as Sri Bundoo Versus Akbar Ali, 1978 ALJ 215 = (1978)4 ALR 969 and Prakash Chander Versus Smt. Sunder Bai, AIR 1979 Raj. 108, wherein it has been held as follows:*
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> > *"Where there is a concurrent finding of fact and even though the subordinate courts had committed an*

error of law in recording that finding, such error cannot be corrected in revision.”

In view of the above mentioned rulings I find no infirmity in the impugned orders. Therefore, this revision petition is dismissed.”

According to counsel for the petitioner, Financial Commissioner has not dealt with any of the pleas raised before him. He merely dismissed the revision petition on the ground that the concurrent findings of lower revenue authorities cannot be corrected in revisional jurisdiction. According to him, this approach of the revisional authority is against law. The order, thus, deserves to be set aside. Learned State counsel has opposed the plea. However, he does not dispute the fact that the revision petition has been dismissed on the ground that concurrent findings were arrived at by the lower revenue authorities.

Keeping in view the facts and circumstances of the case, I feel order passed by the Financial Commissioner is unsustainable. The Financial Commissioner rejected the revision petition holding that concurrent finding of fact by lower revenue authorities cannot be corrected in revision petition even if there is an error of law. In my considered view, in such circumstances, Financial Commissioner could have remitted the case to lower revenue authority for decision afresh instead of holding that there was no infirmity with the orders passed. Financial Commissioner could not have upheld the impugned orders merely on the ground that there could be no interference in revisional jurisdiction even if there was an error apparent on record. Order passed is totally silent on the issues involved in the matter. No view has been expressed by the authority regarding rival stands taken by the parties.

Under the circumstances, I deem it fit to set aside the order passed by the Financial Commissioner. Matter is remitted to the same authority for decision afresh after hearing the parties. Petition is allowed in these terms.

(Rajan Gupta)
Judge

February 4, 2015
"DK"