

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

(I) CWP-11650-2012 (O&M)

Date of decision : 03.03.2015

Rajinder Pal and another

...Petitioners

Versus

The Financial Commissioner Revenue, Punjab and others

...Respondents

(II) CWP-11653-2012 (O&M)

Date of decision : 03.03.2015

Rajinder Pal and another

...Petitioners

Versus

The Financial Commissioner Revenue, Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R.S. Chauhan, Advocate for the petitioners.

Ms. Harsimrat Rai, DAG, Punjab.

Mr. G.S. Punia, Sr. Advocate,
with Ms. Mandeep Kaur, Advocate,
for respondent Nos.4 to 7.

Mr. S.K. Monga, Advocate,
and Mr. Harish Bhardwaj, Advocate,
for respondent No.9.

JITENDRA CHAUHAN, J. (Oral)

In the instant writ petitions filed under Articles 226/227 of
the Constitution of India, the petitioners have sought issuance of a writ

in the nature of certiorari, seeking quashing of the impugned order of the Financial Commissioner Revenue, Punjab, dated 12.03.2012 (Annexure P-14), the operative part of which reads as under:-

“8. After going through the arguments of the parties, I am of the view that the dispute is regarding the land situated along side the road consisting of Kh. No.608 and 610. It has to be seen if the land abutting the road has been equally partitioned amongst the parties and also that the parties have been given equal share according to their entitlement, calculation has been done at the level of AC 1st Grade visiting the spot and a definite finding is required regarding the share of the parties. The case is accordingly remanded to AC 1st Grade, Ludhiana for taking appropriate action as per observations. Announced.”

It is contended that the matter has been remanded to the Assistant Collector 1st Grade to see if the parties have been given equal share according to their entitlement and in this regard, the learned counsel made a reference to Annexure P-7, where 0 Bigha 15 Biswas and 5 Biswas land has been given to the petitioners and respondents in equal shares. Accordingly, it is contended that the issue which is under adjudication since 1990 has again been re-opened by the impugned remand order.

The learned Senior counsel for the respondents submits that the petitioners have approached this Court against the remand order

passed by the Financial Commissioner, whereas, the parties are free to raise all the pleas before the authority to which the matter has been remanded and opposes the contentions raised by the learned counsel for the petitioners and supports the order of the Financial Commissioner.

I have given my thoughtful consideration to the rival contentions raised by learned counsel for the parties.

From the perusal of the order passed by the Financial Commissioner (Annexure P-14), it emerges that the Financial Commissioner has only directed the Assistant Collector 1st Grade to make calculation with regard to the land allotted on the record to the co-sharers and whether the same is according to their entitlement, and thereafter decide the case.

The dispute between the parties is with regard to their entitlement of land abutting the road, i.e. National Highway consisting of khasra Nos.608 and 610 and the parties are litigating since 1988. In the circumstances, the learned Financial Commissioner ought to have summoned the Assistant Collector 1st Grade and directed him to submit the calculation report to ensure that the parties have been allowed area as per their shares. In case, either of the parties has been allotted excess area, he, on the basis of spot inspection carried out by the Assistant Collector 1st Grade, ought to have amended the Naksha 'Be'. In the opinion of this Court, the remand order would re-open the issues and would result into multiplication of litigation. The matter cannot be

allowed to linger on further.

Accordingly, the impugned order passed by the Financial Commissioner, Annexure P-14, is modified to the extent that he would summon the Assistant Collector 1st Grade along with the record and direct him to recalculate the shares of the parties in his presence, and thereafter, pass an appropriate order at his own level, to do complete justice to the parties who have been litigating before various forums since 1988. The observation that calculation has to be done at the level of AC I Grade after visiting the spot, is set aside.

The parties, through their counsel, shall appear before the Financial Commissioner, on 20.04.2015 at 10.00 AM.

CWP Nos.11650 of 2012 and 11653 of 2012, stand disposed of with the above modification in the impugned order.

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

03.03.2015
Sumit.K/atulsethi

(JITENDRA CHAUHAN)
JUDGE