

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CWP No.13119 of 2012

Date of Decision:-07.05.2015

Prof. Sarabjit Singh Purewal

.....Petitioner.

Versus

The Financial Commissioner, Panipat Circle & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. Som Nath Saini, Advocate for the Petitioner.

Mr. Sandeep S. Mann, Sr. DAG Haryana
for respondent nos.1 to 4.

Mr. Vikram Singh Dhakla, Advocate for
respondent nos.5,7 & 8.

JASWANT SINGH, J.(ORAL)

The undisputed fact is that the petitioner is a displaced person from Pakistan and in lieu of the abandoned land in Pakistan, he was allotted land at village Taraf Insar, Tehsil Panipat, District Karnal.

The dispute in the present writ petition is regarding the correction of Khasra Girdawries of agricultural land adjoining the allotted land, which was in possession of father of the petitioners since the time of partition comprising in Khasra No.1656(measuring 4 Bighas 11 Biswas) and 1657 (measuring 8 Bighas 11 Biswas). The case of the petitioner was that he was in cultivating possession of these two parcels of land, however, without their being any order, the entries in the Khasra Girdawries since the

year 1986 had been illegally made in favour of the private respondent nos.5 to 8. On the application filed by the petitioner before Tehsildar-cum-Assistant Collector IInd Grade, Panipat for rectification of the Girdawri before the preparation of the next jamabandi, the order dated 26.03.1999 (P-3) was passed directing the corrections of the Khasra Girdawries in favour of the applicant/petitioner. The operative part of the order reads as under:-

“ On the basis of the report of the Halqa Patwari and Halqa Kanungo mentioned above, I inspected the site on 22.3.99. The report of site inspection is attached with the file. On the basis of the report of the Halqa Patwari and Halqa Kanungo and my inspection done personally, I came to the conclusion that on Khasra No.1656 (4B-1 Biswas) and 1657 (8B-11 Biswas) the applicant Sarabjit Singh is in cultivating possession. Therefore, I order the rectification of Girdawari of Khasra No.1656 (4B-1 Biswas) and 1657 (8B-11 Biswas) in favour of Sarabjit Singh from Rabi, 1999. The Patwari Halqa is directed to make entries to this effect in the revenue record. The file may be consigned to record after needful.”

Aggrieved against the order (P-3), the private respondent nos.5 to 8 filed an appeal dated 13.08.1999 in the court of Sh. Kulwant Singh Kalson, HCS exercising the powers of Collector, Panipat under the Punjab Land Revenue Act, 1887. The officer concerned vide order dated 21.10.1999 (P-4) directed the petitioner (respondent therein) to be proceeded against ex-parte. The same reads as under:-

“ Counsel for the appellant is present. The respondent has been served personally. Case was called. No one came present on behalf of the respondent. The Court time is over. It appears that the respondent is not interested to pursue the case. So the respondent is ordered to be proceeded against ex-parte. He has not been conferred the

powers of Collector. Till the powers of Collector are conferred the case is adjourned to be put on 10.11.99.

Sd/- Collector Panipat

21.10.1999

(emphasis supplied)”

Subsequently the aforesaid officer vide an ex-parte order dated 10.12.1999 (P-5) set aside the order dated 26.03.1999 (P-3). The application of the petitioner for setting aside the ex-parte order (P-5) was dismissed vide order dated 8.4.2002 (P-6) passed by the Sub Divisional Officer-cum-Collector, Panipat. The revision filed by the petitioner against (P-6) was dismissed as time barred by the learned Commissioner, Rohtak Division vide order dated 8.9.2005 (P-9) . The ROR filed before the Financial Commissioner, Haryana by the petitioner was also dismissed vide order dated 5.2.2007 (P-11) upholding the order dated 8.9.2005 (P-9). The review filed as not maintainable was also dismissed on 19.04.2011 (P-12).

Hence the present writ petition seeking quashing of order dated 21.10.1999 (P-4) ordering him to be proceeded against ex-parte, order dated 10.12.1999 (P-5) allowing the appeal, orders dated 8.4.2002 (P-6), dated 8.9.2005 (P-9), dated 5.2.2007 (P-11) and dated 19.04.2011 (P-12) respectively.

In sum and substance, the sole grievance of the petitioner is that SDO (Civil)-cum-Collector, Panipat without being vested with the powers of Collector has declared him ex-parte vide order dated 21.10.1999 (P-4) and thereafter set aside the order dated 26.03.1999 (P-3) directing the correction of Khasra Girdawri in his favour without giving any opportunity of putting forth his case and in violation of principles of natural justice.

On the other hand learned Counsel for the contesting

respondents states that due service upon the respondent was effected and he chose not to appear leaving no option except to order him to be proceeded ex-parte.

After hearing learned Counsel for the parties at length, the dispute has been narrowed down to the undisputed fact that on 21.10.1999 the Sub Divisional Officer (Civil), Panipat while entertaining the appeal and ordering the petitioner(respondent therein) to be proceeded ex-parte was concededly not conferred with the powers of Collector under the provisions of Punjab Land Revenue Act, 1887, as is apparent from the reproduction of the order herein above. The specific averment qua this order dated 21.10.1999 (**P-4**) being without jurisdiction made in the para 7 of the writ petition have not been denied by the respondents. Even at the time of hearing no notification was produced by either of the respondents establishing that the said officers was vested with the powers of Collector on 21.10.1999, the day the petitioner (respondent therein) was ordered to be proceeded ex-parte. Therefore, there is no escape from the conclusion that the said order (**P-4**) is without jurisdiction and thus liable to be set aside. Resultantly the entire edifice of all subsequent orders are also liable to be set aside.

Accordingly the present writ petition is allowed and the impugned orders dated 21.10.1999 (**P-4**) ordering him to be proceeded against ex-parte, order dated 10.12.1999 (**P-5**) allowing the appeal, orders dated 8.4.2002 (**P-6**), dated 8.9.2005 (**P-9**), dated 5.2.2007 (**P-11**) and dated 19.04.2011 (**P-12**) respectively are set aside. The parties are relegated back to the stage of proceedings before SDO (Civil)-cum-Collector, Panipat for a decision on merits. The parties are directed to appear before the aforesaid

Authority on 17.06.2015. It is hoped that the officer concerned shall within next one month dispose of the matter since it has already been considerably delayed.

**(JASWANT SINGH)
JUDGE**

May 07, 2015
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