

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

CWP No.12963 of 2015

Date of Decision:-22.07.2015

Jitender Pal & Ors.

.....Petitioners.

Versus

The State of Haryana & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. S.N. Saini, Advocate for the Petitioners.

JASWANT SINGH, J.(ORAL)

Challenge in the present petition is to the orders dated 30.03.2015 (P-12) passed by the respondent no.2, dated 19.10.2012 (P-5) passed by Commissioner Rohtak Division, Rohtak, dated 24.12.2009 (P-3) passed by SDO(Civil)-cum-Collector, Panipat and also order dated 09.07.2008 (P-1) passed by Tehsildar-cum-Assistant Collector, IInd Grade, Panipat whereby application for correction of Khasra Girdawri of land situated at village Madlauda, District Panipat moved by the petitioners has been dismissed.

Learned Counsel for the petitioner has argued that an application dated 29.08.2014 (P-9) was filed before the learned Financial Commissioner for appointment of a Local Commissioner for verifying the cultivating possession of the petitioner. Notice of the application was given and no reply was filed and without deciding the same, he has passed the

impugned order P-12 dismissing the revision petition.

He has further argued that the application dated 09.02.2015 (**P-10**) was filed before the Financial Commissioner for transferring the case to any Financial Commissioner in the light of allegations that petitioner was complainant in a criminal case against Sh. Kulwant Kalson, Estate Officer, HUDA, Panipat, who is brother in law of the Financial Commissioner, but the FC proceeded to decide the revision petition in a hasty manner just before his retirement.

After hearing learned Counsel for the petitioners and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and same deserves to be dismissed.

The first argument raised by learned Counsel for the petitioners to the effect that application for appointment of local Commissioner for verifying the cultivating possession of the petitioner has not been decided and thus prejudice has been caused to him, seems to be attractive on the first blush , however, on careful consideration of the facts of the case, it is apparent that the learned Assistant Collector, Ist Grade had appreciated the entire controversy involved in the case and thereafter passed impugned order dated 09.07.2008 (**P-1**), whereby he had arrived to a conclusive finding that the petitioners are not in possession of the land in question. There is nothing on record which would show that the petitioners are in possession of the property and it is settled position of law that the Court is not required to appoint a Local Commissioner to collect evidence on behalf of the parties. The onus is always upon the parties to lead their evidence and prove their case. The said principle is squarely applicable to the present case. Thus, even if the averment of the counsel is taken to be correct, still

the Court is of the opinion that non decision of the application for appointment of Local Commissioner will not make the order void ab-initio or liable to be set aside.

As far as the second argument is concerned, this Court has perused all the orders passed by the Authorities below and finds that the Authorities below have considered each and every aspect of the matter to come to a conclusion that the petitioner has failed to bring on record any evidence to prove his possession over the property and learned Financial Commissioner, in his order dated 30.03.2015 (**P-12**) has rightly come to a conclusion that the orders passed by the Authorities below are correct. Apparently, there seems to be no bias against the petitioner by Financial Commissioner, Haryana, while passing the impugned order(P-12).

In view of the above, finding no merit in the present writ petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

July 22, 2015
Vinay