IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 235 of 2014.
Date of Decision : 14.09.2015.

Amin Chand

...Petitioner

Versus

Financial Commissioner, Revenue, Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

1) *Whether Reporters of the local papers may be allowed to see the judgment?*
2) *To be referred to the Reporters or not?*
3) *Whether the judgment should be reported in the Digest?*

Present: Mr. C.M. Munjal, Advocate for the petitioner.

Mr. S.S. Chandumajra, Addl. A.G., Punjab.

Mr. S.K. Arora, Advocate for respondents No. 2 to 4.
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Paramjeet Singh, J.(Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for quashing the order dated 12.03.2013 (Annexure P-5) passed by respondent No. 1, order dated 30.11.2007 (Annexure P-2) passed by Collector, Abohar and order dated 03.11.2006 (Annexure P-1) passed by Assistant Collector, 2nd Grade, Abohar.

Brief facts of the case are that respondents No. 2 to 4 filed an application before Assistant Collector 2nd Grade for correction of khasra girdawri for the land comprised in Rect. No. 63, killa no. 2(8-0), 9

(8-0), 12(8-0), 19(8-0) situate in the area of village Raipura, Tehsil Abohar for kharif-2005 till date. The Assistant Collector 2nd Grade, Abohar vide its order dated 03.11.2006, ordered correction of khasra girdawari in the name of respondents No. 2 to 4. Against that order, the petitioner preferred an appeal before the Collector and the Collector vide order dated 30.11.2007 upheld the order of the Assistant Collector 2nd Grade. Further the petitioner preferred a revision petition under Section 16 of the Punjab Land Revenue Act before the Commissioner, Ferozepur Division, Ferozepur and the Commissioner vide order dated 16.12.2008 accepted the revision petition and set-aside the orders of the Collector as well as Assistant Collector 2nd Grade, Abohar. Thereafter, against the order of the Commissioner, respondents No. 2 to 4 filed an appeal before the Financial Commissioner, Revenue, Punjab, who set-aside the order of the Commissioner dated 12.03.2013 (Annexure P-5) and restored the order of the Assistant Collector 2nd Grade, Abohar and the Collector. It needs to be mentioned here that the parties had earlier gone to Civil Court. The private respondents had filed a Civil Suit No. 23-1 of 11.02.2009, decided on 24.01.2011, whereby their suit for permanent injunction restraining the petitioner herein from interfering into peaceful possession of the plaintiffs, was dismissed. Even the appeal preferred against that order was also dismissed.

In pursuance of the notice of motion, respondents have filed reply contending that petitioner had filed civil suit for declaration and permanent injunction that was dismissed on 10.01.2013 and appeal against that judgment has also been dismissed. It is also contended that they had purchased the land in question from Smt. Lalita, Atul etc. and are in possession of the said land and prayed that present petition be dismissed.

I have heard learned counsel for the parties and gone through the case file carefully.

Learned counsel for the petitioner, vehemently, contended that the findings recorded by the Financial Commissioner are not sustainable as they are factually incorrect. It has wrongly been recorded by the Financial Commissioner that suit filed by the private respondents was not with regard to the said land. The reference has been made to a Civil Suit No. 787-1 of 12.05.2012. Learned counsel for the petitioner further submitted that in fact two suits were filed and copy of the judgments in these suits are on record as Annexures P-4 and R-2/1.

On the other hand, learned counsel for the respondents vehemently contended that reference has been made by the Financial Commissioner to another civil suit i.e. Civil Suit No. 787-1 of 12.05.2012, which may have been filed by the petitioner. It is further submitted that the respondents are actually in possession of the land in question.

I have considered the contentions raised by learned counsel for the parties.

Admittedly, in Civil Suit No. 23-1 of 11.02.2009, decided on 24.01.2011, the relevant khasra Nos. i.e. 63/2(8-0), 9(8-0), 12 min East

(4-0), 19 min East (4-0) have been mentioned. There is mention of another civil suit No. Similarly, these are mentioned in another civil suit 787-1 of 12.05.2012 in order of Financial Commissioner passed in R.O.R. No. 72/2009, dated 16.01.2009, decided on 12.03.2013 (Annexure P-5) but there is no reference to the khasra numbers of land involved in that suit. Neither the parties has annexed either the pleadings or the order passed in that suit, meaning thereby, reference has been made incorrectly by the Financial Commissioner in the order declining the relief to the petitioner.

Admittedly, once the civil court has recorded its findings then the revenue authorities are bound by the findings recorded by the civil court in respective suits.

In these circumstances, this Court is of the view that the order passed by the Financial Commissioner is not sustainable as the incorrect reference has been made to the various suits.

In view of this, the impugned order dated 12.03.2013 (Annexure P-5) is set-aside. Financial Commissioner is directed to decide the revision petition afresh in accordance with law after hearing the parties. The parties through their counsel are directed to appear before the Financial Commissioner on 12.10.2015.

September 14, 2015. **(PARAMJEET SINGH)**
kanchan **JUDGE**