IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.13286 of 2015
Decided on : 24.10.2016

Asthal Tirkhu Tirath Sudhar Samiti, Village Seeenk, District Panipat, through its President

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.D.S.Malik, Advocate, for the petitioner.

Mr.Rohit Arya, AAG, Haryana.

Mr.B.S.Bairagi, Advocate, for respondent No.5.

G.S. Sandhawalia, J. (Oral)

Petitioner challenges the order dated 11.08.2014 (Annexure P8), passed by the Financial Commissioner, whereby, in view of the directions given to decide the ROR's by this Court, he had allowed the two revisions of respondent No.5. Resultantly, the orders whereby the mutation proceedings had been restored after hearing, vide order dated 08.09.2008 (Annexure P3) had again been adjourned sine die.

The order passed by the Financial Commissioner, on the face of it, is a non-speaking order as it failed to appreciate as to what was the real dispute, as such. The reasoning given by the Financial Commissioner, after noticing the facts, reads as under:

> "After having gone through the record of the case and after hearing the counsels of both the parties, I find that the arguments put forth by the appellant and the evidence available on the file and the case laws cited by the counsel of the appellant are

quite relevant and applicable in the present case. The authorities / case laws referred to by the counsel of the appellant i.e. 1982 PLJ Page 397 Banwari Lal Vs Deg Ram and PLJ 1992 page 350 State of Himachal Pradesh Vs Shri Ved Prakash and others are very much applicable in the instant case. So I am of the considered view that the appellant has a solid case and the appeal is accepted.

Announced."

From the above, it is apparent that it is left for the higher Courts to guess as to what prevailed with the Financial Commissioner while allowing the appeals. It is settled principle that orders have to give reasons so that the same can be justified and tested before the higher Courts. Unfortunately, the impugned order does not show any such justification whereby the petitioners have again been put on hold, on account of the order, which cannot be held to be speaking, in any manner.

The dispute only pertains to the mutation proceedings on account of the death of one Baba Brij Dass on 19.01.1986. On account of mutation Nos. 2585 and 755 being entered in favour of respondent No.5, on 19.02.1986 contest was raised by the petitioner-Society. In view of the Civil Court proceedings, whereby suits for permanent injunction had been resorted to by respondent No.5, the Revenue Court had adjourned sine die the proceedings on 19.03.2007. When the matter reached this Court, vide RSA Nos.971 & 1250 of 2006, the stay was vacated on 03.12.2007 (Annexure P5) by noticing that the respondent No.5/plaintiff was not in possession of the suit land. Resultantly, the petitioners filed an application before the Revenue Court that the appeals be taken up on account of the vacation of stay. Resultantly, the case was directed to be put up on 24.09.2008, vide order dated 08.09.2008 (Anneuxre P3). The said order was challenged by respondent No.5 before the Commissioner, unsuccessfully, on 10.06.2010 (Annexure P4). The said revisions were dismissed on the ground that since the stay stands vacated, there was no justification to keep the mutation proceedings adjourned sine die.

Respondent No.5 filed 2 revisions before the Financial Commissioner, which remained pending for hearing. A direction was issued in CWP-10569-2013 on 16.05.2013 (Annexure P9) filed by the petitioner, for deciding the 2 revisions on the next date of hearing, i.e., 15.07.2013 or within a period of 3 weeks, thereafter. Resultantly, the impugned order has been passed on 11.08.2014 (Annexure P8).

As noticed, the revenue authorities have only revived the proceedings of the contest to the mutation, on account of the fact that the stay stood vacated by this Court and unnecessary contest has, thus, resulted. The whole proceedings have been delayed for almost a decade with the dispute being whether the proceedings should be continued or not. Unfortunately, the Financial Commissioner failed to notice the affect of the order of vacation of stay on 03.12.2007, issued by this

Court. It is further pointed out that the RSAs also stood withdrawn on 17.12.2011 (Annexures P6 & P7), by respondent No.5 and inspite of that the revisions have been allowed by the Financial Commissioner.

Resultantly, the present writ petition is allowed, the impugned order dated 11.08.2014 (Annexure P8) is set aside.

(G.S. SANDHAWALIA)
JUDGE

OCTOBER 24th, 2016
sailesh

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No