

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

Civil Writ Petition No. 17758 of 2016

Date of Decision: 30.8.2016

Inderpal Singh

.....Petitioner

Vs.

Sarup Singh Dhaliwal and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Jasbir Rattan, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 1.2.2016 (Annexure P-1) passed by the Financial Commissioner, Punjab-respondent No.1, whereby he set aside the order passed by Commissioner, Patiala Division, Patiala and upheld the order passed by the Collector, remanding the case to Assistant Collector 1st Grade with a direction to pass a fresh order after granting due opportunity of being heard to the contesting parties.

Heard learned counsel for the petitioner.

It has gone undisputed before this Court that due service was not effected on some of the contesting respondents, but the Commissioner, Patiala Division, has drawn inferences with regard to effecting service, however, without referring to the relevant official record. There is nothing

on record to show that service was duly effected on all the share holders in the partition proceedings. It goes without saying that all the co-sharers would have right to file their objections by putting up their defence. It is the basic principles of natural justice that nobody should be condemned unheard.

Once learned counsel for the petitioner has failed to refer to any relevant record available on the case file to show that it was ensured that every contesting respondent/co-sharer was duly served and was granted opportunity of being heard, before passing the impugned order by Assistant Collector 1st Grade, such an order would be patently illegal besides, being contrary to the basic principles of natural justice. Since this issue strikes at the very root of the cause, the Financial Commissioner committed no error of law, while passing the impugned order, upholding the remand order passed by the Collector directing the Assistant Collector 1st Grade, Dhuri, to grant opportunity of being heard to all the stake holders. Having said that, this Court feels no hesitation to conclude that the impugned order passed by the Financial Commissioner has not been found suffering from any patent illegality and the same deserves to be upheld.

During the course of hearing, learned counsel for the petitioner could not substantiate any of his arguments. Further, he could not show any prejudice which might have been caused to the petitioner by passing of the impugned order (Annexure P-1). No doubt, partition proceedings are going on for inordinate long period, however, petitioner is also a party to the said delay.

No other argument was raised.

Considering the peculiar facts and circumstances of the case

Amit Kumar
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noted above, coupled with the reasons aforementioned, this Court is of the considered opinion that since the Financial Commissioner has tried to do substantial justice between the parties, no fault can be found with the impugned order. The writ petition is misconceived and without any merit, thus, it must fail. No case for interference has been made out.

However, since the partition proceedings are pending for the last more than 19 years, Assistant Commissioner 1st Grade, Dhuri, is directed to decide the case at the earliest possible time by passing an appropriate order, strictly in accordance with law.

Resultantly, with the abovesaid observations made and directions issued, present writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

30.8.2016
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Whether speaking/reasoned Yes/No
Whether reportable: Yes/No