

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 18350 of 2016
Date of Decision: 5.9.2016

Hari Kishan

.....Petitioner

Vs.

Financial Commissioner (Revenue), Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Arun Yadav, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 13.7.2016 (Annexure P-6), passed by the Financial Commissioner, whereby revision petition filed by respondent No.4, in a partition matter, was allowed and the case was remanded to the Assistant Collector 1st Grade with a direction to decide partition proceedings afresh, in accordance with law.

Heard learned counsel for the petitioner.

It is not in dispute that late Sh. Molhar died on 20.10.2005. Still he was impleaded as one of the party-respondents. It is also not in dispute that his legal representatives were not brought on record even during the course of proceedings. It being the undisputed fact situation obtaining in

Amit Kumar
I attest to the accuracy and
authenticity of this document

the present case, no fault can be found with the impugned order passed by the Financial Commissioner.

Learned counsel for the petitioner submits that since Hukam Singh son of late Sh. Molhar, received notice but did not appear in the Court, the Assistant Collector 1st Grade, committed no error of law while passing order Annexure P-4, but the Financial Commissioner failed to appreciate this aspect of the matter, because of which the impugned order is liable to be set aside.

The abovesaid solitary contention raised by learned counsel for the petitioner has been considered but the same has not been found worth acceptance for the reason that it is not an admitted case that even Hukam Singh son of late Sh. Molhar, has, as a matter of fact, accepted the notice. Further, other legal representatives of late Sh. Molhar as well as Hukam Singh himself remained unrepresented, meaning thereby the Assistant Collector 1st Grade, passed order Annexure P-4, behind the back of more than one co-sharers in the joint khewat. Since the legal representatives of late Sh. Molhar have been condemned unheard, the order Annexure P-4 would be violative of basic principles of natural justice. Since this issue strikes at the very root of the cause, the Financial Commissioner was well within his jurisdiction, while remanding the matter to Assistant Collector 1st Grade, for deciding it afresh, in accordance with law. Further, learned counsel for the petitioner could not point out any prejudice which might have been caused to the petitioner by passing of the impugned order.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the

considered view that instant writ petition misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

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

(RAMESHWAR SINGH MALIK)
JUDGE

5.9.2016
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Whether speaking/reasoned Yes/No
Whether reportable: Yes/No