IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

CWP No.19599 of 2016
Date of Decision : 21.9.2016

Rattan Singh ......Petitioner

Vs.

Financial Commissioner, Revenue, Punjab and others ......Respondents

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. Vijay Lath, Advocate for the petitioner.

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RAMESHWAR SINGH MALIK, J

Present writ petition is directed against the order dated 2.6.2016 (Annexure P-43) passed by the Financial Commissioner, whereby the order passed by the Commissioner was upheld and the appeal filed by the petitioner was dismissed, directing the Assistant Collector, Ist Grade to proceed further with the partition proceedings, as the civil suit filed by the petitioner already stands dismissed.

Heard learned counsel for the petitioner.

It has gone undisputed before this court that the learned Assistant Collector, Ist Grade, vide his order dated 14.10.2010 (Annexure P-22), adjourned the partition proceedings sine-die to await the decision of the civil court, as the petitioner has filed a suit for declaration. That order passed by the Assistant Collector, Ist Grade was upheld by the Collector, Anandpur Sahib, vide order dated 4.5.2011 (Annexure P-33). When the matter was pending before the Commissioner against the above said orders passed by the Assistant Collector, Ist Grade as well as by the Collector, civil suit filed by the petitioner came to be dismissed. Under those changed circumstances, Commissioner, Roop Nagar Division, Roop Nagar, vide his impugned order dated 29.4.2016 (Annexure P-41), remanded the matter to the Assistant Collector, Ist Grade, Anandpur Sahib, directing him to proceed further with the partition proceedings and conclude the same as per law, while keeping in view the decision of the civil court.

Petitioner felt aggrieved against the above said order dated 29.4.2016 passed by the Commissioner and he approached the Financial Commissioner by way of an appeal under Section 13 of the Punjab Land Revenue Act, 1887. However, said appeal filed by the petitioner also came to be dismissed by the Financial Commissioner, vide his impugned order dated 2.6.2016 (Annexure P-43). A bare reading of both the impugned orders passed by the Commissioner as well as the Financial Commissioner would make it crystal clear that the only ground on which partition proceedings were adjourned sine-die was, as a matter of fact, no more available to the petitioner, because his civil suit had already been dismissed. Having said that, this court feels no hesitation to conclude that neither the Commissioner nor the Financial Commissioner committed any error of law, while passing their respective impugned orders and the same deserve to be upheld.

Learned counsel for the petitioner submitted that since his first appeal is pending, which would amount to continuation of the suit, Commissioner as well as the Financial Commissioner ought to have stayed their hands, to await the decision of the appeal filed by the petitioner. In support of his contention, learned counsel for the petitioner places reliance on two orders of this court in **Jagtar Singh Vs. State of Punjab**, 2007 (4) RCR (Civil) 61 and **Hans Raj and others Vs. Financial Commissioner, Haryana and others,** 2010 (2) LAR 224.

A bare perusal of both these orders passed by two Division Benches of this court would show that both these orders were dealing with the issue of mutation. There is no dispute about the observations made by this court in J**agtar Singh's case (supra)** and **Hans Raj's case (supra),** however, none of these orders is of any help to the petitioner, both these orders being clearly distinguishable on facts. Further, peculiar facts and circumstances of each case are to be examined, considered and appreciated first before applying any codified or judgemade law thereto. Sometimes, difference of one circumstance or additional fact can make the world of difference, as held by the Hon'ble Supreme Court in ***Padmausundra Rao and another Vs. State of Tamil Nadu and others,*** 2002 (3) SCC 533.

In case the above said contention raised by learned counsel for the petitioner is accepted, then the partition proceedings would not be concluded till the matter attains finality upto the Hon'ble Supreme Court of India. It goes without saying that ultimately, the civil court decree shall be binding between the parties. However, that does not mean that the revenue authorities would not be entitled to proceed further, exercising their statutory powers and conclude the partition proceedings, by passing an appropriate order thereon, strictly in accordance with law.

As noticed herein above, question of title sought to be raised by the petitioner has already been decided against the petitioner, by the learned court of competent jurisdiction. Under these circumstances, it can be safely concluded that the petitioner is trying to linger on the matter, which cannot be permitted. Every effort must be made to conclude the litigation at the earliest possible time. Further, no prejudice has been shown, which might have been caused to the petitioner, by passing the impugned orders, warranting interference at the hands of this court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

Another argument raised by learned counsel for the petitioner is too technical, to the effect that although the Collector passed as many as 7 appellate orders, but the only one appellate order was challenged before the Commissioner. A combined reading of the orders passed by the Commissioner as well as the Financial Commissioner would show that the petitioner never raised this objection either before the Commissioner or before the Financial Commissioner.

Further, once the issue was one and the same, it would be hardly of any consequence that as many as 7 separate and independent revisions were not filed. It is not disputed even now before this court that the issue involved was exactly the same in all the matters. It is the settled proposition of law that multiplicity of litigation must be avoided and not encouraged. Again, no prejudice has been caused to the petitioner in this regard. Neither the Commissioner nor the Financial Commissioner have exceeded their jurisdiction, while passing their respective impugned orders and the same deserve to be upheld, for this reason also.

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 the present writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

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

21.9.2016 (RAMESHWAR SINGH MALIK)
GS JUDGE

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No