

Sr. No.208

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO.2266-2015(O&M)

Date of Decision: 16.11.2016

Joginder Singh

.....Petitioner

vs.

F.C. Punjab and others

.....Respondents

CORAM HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present:- Mr.M.K.Singla, Advocate for the petitioner.
Mr. B.M.Vinayak, DAG, Punjab.

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RAMESHWAR SINGH MALIK, J

Feeling aggrieved against the order dated 23.07.2014 (Annexure P11) passed by the Financial Commissioner, Punjab, whereby revision petition filed by State of Punjab was allowed, petitioner has approached this Court by way of present writ petition under Article 226 and 227 of the Constitution of India, seeking a writ in the nature of Certiorari for quashing the impugned order.

Notice of motion was issued and in compliance thereof, reply by way of counter affidavit dated 20.05.2016 was filed on behalf of the respondents.

Heard learned counsel for the parties.

Petitioner has taken specific averments in para 3 of the writ petition about the background of the case. Para 3 of the writ petition reads as under:-

vide order dated 01.11.1960 of Collector Agrarian Reforms, Malerkotla, I S.A 4 $\frac{3}{4}$ units of land of deceased Gurdial Singh (father of the petitioner) was declared surplus the Pepsu Tenancy and Agricultural Lands Act and ultimately the then FC Planning Punjab vide its order dated 16.12.1965, remanded back the case to SDO Malerkotla (Exercising the powers of Collector) directing him for demarcating the surplus area again, after giving the parties an opportunity of being heard and the parties were directed to appear before him on 04.01.1966 and accordingly the parties appeared before him and land bearing khasra nos. 1664 min (2B-6B) and 1665 (6B-0B) total 8 bigha 6 biswas was declared surplus on 31.01.1966 vide order Annexure P1.”

When the respondents filed their written statement, they admitted the above said averments taken on behalf of the petitioner to be correct.

Para 3 of the written statement reads as under:-

“ That the para no.3 of the petition is admitted to be correct. The order of the Collector Agrarian dated 31.01.1966 has become final between the parties. The order dated 31.01.1966 has not been set aside by any authority till today.”

However, the impugned order Annexure P11, passed by the learned Financial Commissioner, Punjab proceeds on the presumption that

18.03.1974 under the new Act. Order dated 31.01.1966 (Annexure P1) has been altogether ignored. No reasons are forthcoming as to why the above said undisputed official record was ignored. It seems that the true factual background of the case was not brought to the notice of the Financial Commissioner because of which the impugned order came to be passed treating the land declared under the Punjab Land Reforms Act, 1972, whereas the true factual position obtaining on record was otherwise, to the effect that the land had been declared surplus way back on 31.01.1966 under the old Act. Since the above said factual aspect of the matter could not be discussed by the learned Financial Commissioner, while passing the impugned order Annexure P11 dated 23.07.2014, the same cannot be sustained.

When confronted with the above said factual aspect of the matter obtaining on the record of the case, learned counsel for the State also could not address any meaningful arguments and rightly so, it being matter of record. Since the impugned order passed by the learned Financial Commissioner has been found running contrary to the official record, the matter needs to be re-considered at the hands of Financial Commissioner.

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 impugned order cannot be sustained and the same is hereby set aside. The matter is remitted back to the Financial Commissioner, Punjab with a direction to re-consider the case and decide it afresh by passing an appropriate order, strictly in accordance with law and

whereby land has been shown declared surplus on 31.01.1966.

Let the Financial Commissioner, Punjab pass an appropriate order at an early date and in any case within a period of six months from the date of receipt of certified copy of this order.

With the above said observations made and directions issued, present writ petition stands allowed, however, with no order as to costs.

November 16, 2016

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(RAMESHWAR SINGH MALIK)

JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No