

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.23658 of 2016
Date of decision: 17.11.2016

Bahadur Chand

... Petitioner

Vs.

The Sub Divisional Officer (Civil) and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Ashok Verma, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Instant writ petition is directed against the revisional order dated 11.05.2016 (Annexure P-4) passed by Financial Commissioner, Haryana, whereby, instead of accepting the recommendations made by the Commissioner, Hisar Division, Hisar vide his order dated 05.08.2015 (Annexure P-3), Financial Commissioner remanded the matter to the Commissioner to hear both the parties and decide the matter afresh.

Heard learned counsel for the petitioner.

A bare reading of the impugned order (Annexure P-4) passed by Financial Commissioner would show that the order passed by Commissioner was found without any finding with regard to the calculation of kankut (rent in the form of share in agricultural produce). In the absence of any such finding

recorded by the learned Commissioner, learned Financial Commissioner was well within his jurisdiction to pass the impugned order, remanding the matter to the Commissioner to pass the fresh order, after hearing both the parties. In such a situation, no fault can be found with the impugned order passed by the Financial Commissioner and the same deserves to be upheld.

The relevant operative part of the impugned remand order dated 11.05.2016 (Annexure P-4) passed by learned Financial Commissioner, which deserves to be noticed here, reads as under: -

“I have duly considered the arguments advanced by both the counsels and have perused the relevant record of the case. The Commissioner, Hisar vide his order dated 05.08.2015 has recommended that difference of rent from kharif 2004 to rabi 2007 should be paid by the tenant to the land owner. But, the Commissioner has not given any finding with regard to basis of calculation of kankut. The order dated 05.08.2015 passed by Commissioner cannot be confirmed in absence of correct calculation of kankut. The case is accordingly remanded to the Commissioner to hear both the parties on kankut from kharif 2004 to rabi 2007 and pass a reasoned order as to what is the basis of kankut. The parties are directed to appear before Commissioner, Hisar Division, Hisar.”

During the course of hearing, when confronted with the abovesaid undisputed fact situation obtaining on the record of the case, learned counsel for the petitioner had no answer and rightly so, it being a matter of record. The impugned order passed by learned Financial Commissioner has not been found

suffering from any patent illegality or perversity. Further, since it is only a remand order, petitioner shall also get every opportunity to defend himself before the Commissioner. Under these circumstances, no prejudice, of any kind whatsoever, has been shown, which might have been caused to the petitioner by passing the impugned order, warranting interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

Since the impugned order (Annexure P-4) is only a remand order, which has not been found suffering from any patent illegality, being upheld by this Court, it would not be appropriate to comment upon the merits of the case, lest it may cause serious prejudice to the interest of either of the parties. It goes without saying that learned Commissioner shall grant reasonable opportunity of being heard to both the parties, before passing an appropriate order in compliance of the impugned remand order passed by learned Financial Commissioner.

The only argument raised by learned counsel for the petitioner that the impugned remand order was contrary to the facts of the case as well as illegal, has been duly considered but found wholly misplaced and without any force. In fact, learned Financial Commissioner has rightly passed the impugned remand order, which deserves to be upheld.

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 since the impugned order (Annexure P-4) is only a remand order and has not been found suffering from any patent illegality, the same deserves to be

upheld. The writ petition having been found wholly misconceived, bereft of merit and without any substance, must fail. No ground for interference has been made out.

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

17.11.2016
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

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