IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No. 27 of 2015. [O&M]
Date of Decision:28th January, 2016.

Smt. Poonam Aggarwal & Ors.
Petitioners through
Mr. C.B.Goel, Advocate

Versus

The Financial Commissioner, Haryana & Ors.
Respondents through
Ms. Kirti Singh, Deputy AG, Haryana
Mr. Sanjeev Panwar, Advocate,
for respondents No. 13, 14,15,19 and 28

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CORAM:HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B.BAJANTHRI

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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SURYA KANT, J. [ORAL]

The petitioners have laid challenge to the order dated 29.05.2014 [P-4] passed by the Financial Commissioner, who having detected wholesome fraud played on the Gram Panchayat and resultant misappropriation of *shamlat* land, invoked its *suo-moto* jurisdiction and issued the following directions to the Deputy Commissioner, Yamuna Nagar:-

> "*[i] To identify officials who were complicit in these action, and get appropriate disciplinary proceedings initiated against them for imposition of a major penalty on them.*
> *[ii] Registration of a criminal case may also be explored to identify any mala-fide action and collision on part of the officials concerned and initial applicants concerned of the partition proceedings;*
> *[iii] To also ensure that the Gram Panchayat gets appropriate rental value for the land thus un-authorisedly*

occupied by the petitioners for the period of such illegal occupation".

[2]. The petitioners' grievance against the order of the Financial Commissioner is two fold. Firstly, they say that it was their revision petition which was under consideration of the Financial Commissioner and it is not a case of invoking *suo-moto* jurisdiction. Secondly, there was no material before the Financial Commissioner to draw the above reproduced conclusions or to issue the directions. Thirdly, it is urged that the petitioners may be permitted to withdraw their petition which was subject matter of consideration before the Financial Commissioner.

[3]. Having given our thoughtful consideration to the submissions as well as contentions raised by learned counsel for the parties, we are satisfied that no interference in the impugned order is called for. The Financial Commissioner has done a commendable job by invoking *suo-moto* powers which are expressly vested in him under Section 16 of the Punjab Land Revenue Act, 1887 which read as follows:-

> *"16. **Power to call for examine and revise proceedings of Revenue-officers** : -(1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed by, any Revenue –officer subordinate to him.*
>
> *(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue officer under his control.*
>
> *(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the*

proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(4) The Financial Commissioner may in any case called for by himself under sub-section (1) or reported to him under sub-section (3) pass such order as he thinks fit :

Provided that he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate Revenue-officer and affecting any question of right between private persons without giving those persons an opportunity of being heard".

[4]. In view of the express powers conferred under the Statute, the order can not be said to be exceeding the jurisdiction.

[5]. The circumstances of the case did warrant to invoke *suo-moto* jurisdiction by the Financial Commissioner as the petitioners continued to enjoy possession of the Gram Panchayat land allegedly transferred in their favour fraudulently for more than a period of ten years when their revision petition remained pending before the Financial Commissioner. They have been enjoying such possession even prior thereto.

[6]. Thirdly, the Financial Commissioner has referred to the material to hold that the dispute land is *shamlat-deh*. There is no finding by any competent Forum to declare the land as a private property of the proprietors. If it was *shamlat-deh*, it obviously stood vested in the Gram Panchayat under Section 2[g] of the Punjab Village Common Lands [Regulation] Act, 1961. The loss caused to a public institute like Gram Panchayat and that too if in connivance with the revenue officials, was liable to be unearthed and the directions

issued by the Financial Commissioner are the result of a *bona-fide* performance of his duties.

[7]. The petitioners were duly represented by their counsel and heard at the time of passing of the impugned order. The public interest demanded such a deterrent action both against the officials as well as private persons to curb greed of grabbing Gram Panchayat properties or which are meant for common purposes of the village community.

[8]. For the reasons aforementioned, we do not find any merit in this writ petition which is accordingly dismissed.

(SURYA KANT)
JUDGE

January 28, 2016. ***(P.B.BAJANTHRI)***
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