

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No.26169 of 2016  
Date of decision: 17.12.2016

**Prem Dass**

**... Petitioner**

**Vs.**

**State of Punjab and others**

**... Respondents**

**CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present: Mr. Vivek K. Thakur, Advocate  
for the petitioner.

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**RAMESHWAR SINGH MALIK, J. (ORAL)**

Feeling aggrieved against the impugned appellate order dated 01.09.2016 (Annexure P-5) passed by learned Financial Commissioner, Punjab-respondent No.1, whereby appeal of the petitioner was dismissed, upholding the impugned order dated 26.10.2015 (Annexure P-3) passed by learned Commissioner, Jalandhar Division, Jalandhar, transferring the proceedings from the Court of Collector Agrarian, Hoshiarpur to the Court of Collector Agrarian, Kapurthala, petitioner has approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of certiorari, for quashing the impugned orders.

Heard learned counsel for the petitioner.

Learned counsel for the petitioner submits that there was no justification with the Commissioner, Jalandhar Division, Jalandhar to pass the

impugned order dated 26.10.2015 (Annexure P-3), transferring the proceedings from the Court of Collector Agrarian, Hoshiarpur to the Court of Collector Agrarian, Kapurthala. The plea raised before him was wholly misplaced. He further submits that when the petitioner approached the Financial Commissioner against the abovesaid order passed by Commissioner, Jalandhar Division, Jalandhar, Financial Commissioner also fell in serious error of law, while passing the impugned appellate order. He also submits that despite the fact that a time of more than one year has lapsed, after passing the impugned order dated 26.10.2015 (Annexure P-3) by Commissioner, Jalandhar Division, Jalandhar, petitioner has not received any notice from the Court of Collector Agrarian, Kapurthala so far and pendency of the proceedings is causing manifest injustice. He prays for setting aside the impugned orders, by allowing the present writ petition.

So far as the contentions raised by learned counsel for the petitioner about the impugned orders (Annexures P-3 and P-5) are concerned, the same have been duly considered, but found wholly misplaced and not worth acceptance. It is so said because learned Commissioner, Jalandhar Division, Jalandhar has passed the impugned order (Annexure P-3) rightly appreciating the bonafide apprehension raised before him, coupled with the fact that Collector Agrarian, Hoshiarpur gave his no objection for transfer of the proceedings from his Court to the Court of Collector Agrarian, Kapurthala. Similarly, learned Financial Commissioner was also well within his jurisdiction to pass the impugned appellate order, because the order (Annexure P-3) passed by learned Commissioner, Jalandhar Division, Jalandhar was not found suffering from any patent illegality or perversity. Having said that, this Court feels no hesitation to

conclude that the impugned orders (Annexures P-3 and P-5) passed by Commissioner and Financial Commissioner respectively, deserve to be upheld.

It is the settled proposition of law that justice is not only to be done but it should also seem to have been done. Once one of the parties to the litigation has raised apprehension of not getting due justice at the hands of a particular authority and said apprehension is found to be genuine, the higher authority in the hierarchy would always be well within its jurisdiction to transfer the proceedings of any case from one Court to another Court, so as to ensure that parties to the litigation must get proper opportunity to put up their respective case and finally, justice is done. Any litigant must not be forced to go home with this grouse that he did not get due opportunity and in the absence of such proper opportunity, he did not get justice. Having been tested both the impugned orders on the basis of abovesaid settled proposition of law, none of the impugned orders have been found suffering from any patent illegality and the same deserve to be upheld, for this reason also.

However, this Court has found force in the second contention raised by learned counsel for the petitioner that after receiving the case file from the Court of Collector Agrarian, Hoshiarpur, notice must have been issued by the Collector Agrarian, Kapurthala to all the would be affected parties, with a view to decide the case at an early date. As per the contentions raised by learned counsel for the petitioner, it does not seem to have been done by Collector Agrarian, Kapurthala and that too for no good reasons. Since the petitioner was party to the litigation, he would have certainly received the notice, had it been issued by the Collector Agrarian, Kapurthala. It goes without saying that unwarranted delay would not be in the interest of justice.

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 neither the impugned orders (Annexure P-3 and P-5) have been found suffering from any illegality nor any prejudice has been shown, which might have been caused to the petitioner by passing the impugned orders, no interference is called for, at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India.

Consequently, while upholding the impugned orders (Annexures P-3 and P-5), a direction is issued to the Collector Agrarian, Kapurthala to proceed further with the matter, issue notice to all the would be affected parties immediately, if not already issued and decide the case, after granting due opportunity of being heard to all the concerned parties, by passing an appropriate order, strictly in accordance with law but in any case within a period of eight months from the date of receipt of certified copy of this order.

Resultantly, with the abovesaid observations made and directions issued, present writ petition stands disposed of, however, with no order as to costs.

**[ RAMESHWAR SINGH MALIK ]**  
**JUDGE**

17.12.2016  
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Whether speaking/reasoned Yes/No

Whether reportable Yes/No