

CWP-3413-2015

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-3413-2015

Date of Decision: 06.04.2016

Sukhdev Singh

... Petitioner(s)

Versus

The Financial Commissioner, Punjab and others

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH
DHALIWAL**

- 1) Whether Reporters of the 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 ?

Present: Ms. Amandeep Soni, Advocate,
for the petitioner.

Mr. B.M.Vinayak, DAG, Punjab.

Mr. Balram Singh, Advocate,
for respondent No.4.

Paramjeet Singh Dhaliwal, J.(Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the order dated 01.07.2014 (Annexure P-5) passed by respondent No.1-Financial Commissioner, order dated 20.10.2011 (Annexure P-4) passed by respondent No.2-Commissioner, Jalandhar

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Division, Jalandhar and order dated 09.12.2010 (Annexure P-3) passed by respondent No.3-District Collector, Jalandhar whereby complaint moved by the petitioner seeking dismissal of respondent No.4 as Lambardar, was dismissed.

Brief facts of the case are to the effect that the petitioner filed an application before respondent No.3-District Collector for removing respondent No.4-Nishan Singh from the post of Lambardar on the ground that respondent No.4 had proceeded abroad to settle there permanently. Respondent No.4 contested the application on the ground that he had gone to Canada for a short while and had fallen sick there and, therefore, he could not return as early as he wished. After hearing the parties, respondent No.3-Collector dismissed the application vide impugned order dated 09.12.2010 (Annexure P-3). Against that, the petitioner preferred an appeal before respondent No.2 which has been dismissed vide impugned order dated 20.10.2011 (Annexure P-4). Being dissatisfied, the petitioner preferred revision before respondent No.1 which has also been dismissed vide impugned order dated 01.07.2014 (Annexure P-5). Hence, this writ petition.

I have heard learned counsel for the parties and perused the record.

It would be apposite to reproduce Rule 26(ii) of the Punjab Land Revenue Rules (as applicable to Punjab) which reads as under:

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“26. Appointment of substitutes for non-resident headmen-

(ii) Where, in an estate owned by more landowners than one, a non-resident headman is liable, either individually or as representative of other non-resident landowners, for more than half the land revenue of the estate, a substitute for such headmen may be appointed from among either the resident landowners or tenants. In making such appointment the Collector shall consult the wishes of the non-resident headman.”

The aforesaid rule provides that there is a provision for appointment of substitute for non-resident headmen by the Collector with the consultation of the non-resident headman. All the authorities have concurrently held that respondent No.4 had gone abroad after appointing a 'Sarbrah' Lambardar and had returned to India within the tenure of his appointment. The petitioner has failed to prove that respondent No.4 had permanently settled abroad. The authorities have also held that respondent No.4 continues to own land in the village and does not suffer from any other disqualification.

As a result of the above discussion, I do not find any illegality or perversity in the impugned orders.

Dismissed.

06.04.2016
parveen kumar

(Paramjeet Singh Dhaliwal)
Judge