214

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-19313-2013
Date of decision : 23.03.2017

Daya Nand

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. R.K. Gupta, Advocate
for the petitioner.

Mr. Rajbir Singh, AAG, Haryana.

Mr. Amit Jhanji, Advocate
for respondent Nos.3, 5, 6, 8 to 10 & 11.

Mr. Rahul Vats, Advocate
for respondent Nos.4 & 7.

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AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned orders dated 12.07.2013 (Annexures P-18 & P-19), whereby the revision petition filed by the private respondent(s) under Section 16 of the Punjab Land Revenue Act, 1887 has been accepted by the Financial Commissioner, Haryana/respondent No.1 and the matter has been ordered to be reopened by remanding back it to the Assistant Collector Grade-I.

Mr. R.K. Gupta, learned counsel appearing on behalf of the petitioner submits that the petitioner has moved an application seeking partition of the land and the mode of partition was suggested on 19.04.2004.

There was no objection to the same and on 04.11.2004, *Naksha Be* was prepared. The contesting respondent No.1 filed the objection against the *Naksha Be,* which was dismissed on 03.03.2005 and on 18.07.2005, *Naksha zeem* was prepared. The appeal against the order dated 03.03.2005 was dismissed on 06.04.2007. *Sanad taksim* resultantly was prepared on 05.06.2007. The possession of the basis of the aforementioned *sanad taksim* was delivered to the respective parties as per their respective possession way back on 29.06.2011. However, there was typographical error in the *sanad taksim* regarding Killa & Rectangle numbers. Accordingly, an application for correction of the same was moved. The Assistant Collector advised the petitioner to approach the Collector and the Collector vide order dated 03.01.2012 ordered for the correction. However, in the meantime, the private respondent(s) filed a civil suit challenging the order of the correction and the interim order granted therein i.e. status quo was vacated on 11.05.2012. Taking the advantage of the aforementioned proceedings again raked up the matter by filing a petition under under Section 16 *ibid,* resulting into, passing of the impugned order.

He further submits that once the matter had already been attained the finality, much less, *sanad taksim* having been implemented and executed, the parties could not have raised the objections as no cogent reasons has been assigned or taking a note of by the Financial Commissioner for remanding the matter back by holding the partition proceedings as *de novo*, thus, urges this Court for setting aside the impugned order, under challenge.

Mr. Amit Jhanji, learned counsel appearing on behalf of the respondent Nos.3, 5, 6, 8 to 10 and 11 and Mr. Rahul Vats, learned counsel appearing on behalf of respondent Nos.4 and 7, submits that the opportunity of hearing regarding correction of *sanad taksim* should have been given, though the orders reflects the presence of the parties, but on the final hearing i.e. on 18.06.2012, the correction was done at the back of the respondent(s). It is, in this aspect of the matter, the order was challenged, but the remedy for correction of the *sanad taksim* is only under Section 16 *ibid* in view of the law laid down by the Division Bench of this Court in ***"Amar Khan and others V/s State of Punjab and others" 2009 (1) RCR (Civil) 741***, thus, the impugned orders, under challenge, are perfectly legal and justified.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is a merit and force in the submissions of Mr. R.K. Gupta, for, the order of *sanad taksim* had been passed way back in the year 2007 and the possession had been taken, much less, the parties are in their respective possession. For the purpose of typographical correction of the *sanad taksim,* corrected *sanad taksim* could not have been assailed until and unless the some substantial change or clerical error, which could be said to be against the revenue record. Having not been able to satisfy the aforementioned fact, in my view, the Financial Commissioner has committed illegality and perversity in remanding back the matter by ordering the holding of the partition proceedings afresh *de novo*. The order under challenge, in my view, suffers from the non-application of mind and reasons assigned are fallacious and erroneously.

In view of what has been noticed above, the impugned orders dated 12.07.2013 (Annexures P-18 & P-19) rendered by the Financial Commissioner by accepting the revision petition of the private respondent(s) are hereby set aside.

The present writ petition stands allowed.

(AMIT RAWAL)
JUDGE

23.03.2017
Yogesh Sharma

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**