

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

CWP No.1293 of 2017

Date of Decision.09.02.2017

Kewal Singh and others

.....Petitioners

Vs

Financial Commissioner (Appeal) and others

.....Respondents

Present: Mr. Rai Singh Chauhan, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioners are aggrieved of the impugned order (Annexure P-8) rendered by the Financial Commissioner (Appeals), Punjab at Chandigarh deciding ROR No.741 of 2013, assailing the order dated 29.07.2013 of the Commissioner, Jalandhar Division, who had after hearing the matter remanded the matter back to the Assistant Collector Grade-I, Batala in respect of partition of the land mentioned in the application as per the jamabandi for the year 1999-2000 situated in the revenue estate of Srihargobindpur, Tehsil Batala, District Gurdaspur.

Mr. Rai Singh Chauhan, learned counsel appearing on behalf of the petitioners submits that the petitioners before the Financial Commissioner, being represented by him, were not given effective opportunity, much less, hearing with regard to the impugned order and the presence has been marked in his absence. In this regard, there is a categorical pleading in the writ petition, duly supported by an affidavit. In fact, the land in dispute is river bed and cannot be partitioned being *gair mumkin*.

Instead of pondering upon the legality and illegality of the application and as well as the impugned order, the fact remains that the

Financial Commissioner, after hearing the arguments at length in the presence of the counsel representing the petitioners, remanded the matter back to the Assistant Collector 1st Grade to decide the application afresh, subject to all the exceptions which the petitioners would take before the concerned authorities. The order of the Financial Commissioner, in fact, upheld the findings of the Commissioner.

I am of the view that instead of delving upon the matter regarding the presence of Mr. Chauhan or whether the counsel represented the petitioners or not, the fact remains that the order impugned does not take away valuable right of the petitioners to take all the objections which the petitioners have taken and intend to take. They shall be dealt with by the Assistant Collector 1st Grade, Batala before whom the matter has been remanded back.

For the foregoing reasons, I do not intend to differ with the finding rendered by the Commissioner as well as the Financial Commissioner. With the liberty aforementioned, the writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

February 09, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No