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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-24223-2012
Date of decision : 31.01.2017

Mohinder Singh

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.S. Rangi, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl. A.G., Punjab.

None for respondent No.2.

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AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned order dated 15.03.2012 (Annexure P-4) of the Financial Commissioner (Revenue), Punjab, which has been passed in pursuance to the direction rendered by this Court in CWP No.18837 of 2007 vide order dated 28.04.2010.

Mr. S.S. Rangi, learned counsel appearing on behalf of the petitioner submits that the application at the instance of respondent No.2-Satish Kumar, was moved before the Financial Commissioner (Revenue), Punjab and the Additional Secretary, Revenue-cum-Inquiry Officer, on his directions, held the inquiry at the back of the petitioner with regard to the jambandi for the years 1978-79, 1981-82, 1986-87, 1991-92, 1996-97, 2001-02 regarding Khasra No.394 (4-4) of the Village Bapraur Tehsil Rajpura, District Patiala, Punjab.

He submits that this Court had particularly directed the FCR

(Revenue) to go into the matter in detail, but the FCR (Revenue) instead of applying its own mind had again reiterated the stand taken by the previous FCR (Revenue) in the order dated 13.01.2005 by drawing the attention of this Court to the order dated 15.03.2012 which reads thus:-

> *"After considering the arguments of both the parties has been found that the entries in the revenue record have been changed without following proper procedure. The Patwari of Kanungo have no authority to make changes in the jambandis regarding the status of the parties qua land. Mohinder Singh has not been able to explain categorically his stand regarding the change in the entries in the revenue record but simply stated that the revenue court has not jurisdiction to order the correction of entries in the jambandi. The jurisdiction lies with the civil court as provided in the Section 45 of the Land Revenue Act. In the connection the High Court has already made it clear in the order dated 28.4.2010 ibid that the FCR has the power under Section 16 of the Act ibid to decide the matter after affording opportunity of hearing to petitioner Mohinder Singh.*
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> *8. A detailed order has been passed by Smt. Rupan Deol Bajaj the then FCR whereby it was held that the entries in the revenue record had been unauthorizedly changed by the lower revenue officials and ordered for the correction of the entries. It is apparently clear that procedure for change in the entries was not adopted by the revenue officials. No reasons have been assigned to change the entries existing in the jamabandi. Order of competent authority was not obtained. In such circumstances, the order dated 13.1.2005 passed by the then FCR is self speaking which was passed after detailed enquiries. Due opportunity of hearing has been given to Mohinder Singh petitioner but he could not justify the unauthorized changes in the entries made in the jamabandis from time to time by the revenue officials.*

> *9. Keeping in view the above discussion, I uphold the order dated 13.1.2005 passed by Smt. Rupan Deol Baja, the then Financial Commissioner Revenue, Punjab."*

He further submits that the Revenue Authorities do not have a jurisdiction to correct the entries as the remedy lies elsewhere i.e. under Section 45 of the Punjab Land Revenue Act, 1887. In pursuance to the aforementioned inquiry, the Commissioner, Patiala, Division Patiala had issued charge sheets to Sh. Gurnam Singh the then Patwari (now Naib Tehsildar) on 14.06.2013, however, after holding a detailed inquiry, found that the officials were not at fault. This fact is evident from the affidavit dated 22.01.2015 filed in this Court by drawing the attention of this Court to paragraph 3 of the same which reads thus:-

> *"That in compliance with the order dated 13.01.2005 (Annexure P-II) of the Financial Commissioner, Revenue, the Commissioner Patiala Division Patiala had issued charge sheets to Sh. Gurnam Singh the then Patwari (now Naib Tehsildar) vide Memo No.EA-A/C/420/3430, dated 14.06.2013 and to Sh. Surjit Singh the then Patwari (now Kanungo) vide Memo No.EA-A/C/420/3431, dated 14.6.2013. However, after holding a detailed enquiry a detailed orders bearing No.EA-I (B)-81, dated 06.01.2014 (Annexure R-1) vide which these officials having not found at fault; have been absolved from the charges, leveled against them".*

thus, urges this Court for setting aside the impugned order under challenge as there is a gross illegality and perversity.

There is no representation on behalf of respondent No.2 despite service.

Mr. Yatinder Sharma, Addl. A.G., Punjab does not deny the contents of the affidavit dated 22.01.2015.

In view of the aforementioned facts, I am of the view that once it has been found that the officials were not at fault in causing the entries particularly FCR (Revenue) was enjoined upon an obligation to examine the the matter in its correct perspective, but the order, extracted above, reveals that there is a reflection of overriding effect of the order dated 13.01.2005 which was already set aside by this Court in CWP No.18837 of 2007 vide order dated 28.04.2010 (Annexure P-3). Moreover, the FCR (Revenue) should have pondered upon the objection taken by the petitioner qua jurisdiction of the revenue authorities i.e. Section 45 of the 1887 Act which reads thus:-

> *"45. **Suit for declaratory decree by persons, aggrieved by an entry in a record** - If any person considers himself aggrieved as to any right of which he is in the possession by an entry in a record-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877."*

Having not pondered upon such situation, I am of the view that the impugned order, under challenge, is not sustainable. If at all, any grievance is left, the aggrieved party shall be at liberty to vindicate his grievance in a Civil Court, but not in the manner and mode. Resultantly, the impugned order dated 15.03.2012 (Annexure P-4) is hereby set aside and the present writ petition stands allowed.

(AMIT RAWAL)
JUDGE

31.01.2017
Yogesh Sharma

✓
Whether speaking/reasoned **Yes/ No**

✓
Whether Reportable **Yes/ No**