

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

**C.W.P No.23234 of 2016 (O&M)
Date of Decision:- 18.07.2017**

Satpal

.... Petitioner

vs.

The Financial Commissioner, Haryana and others

.... Respondents

**CORAM:- HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present:- Mr. R.S. Tacoria, Advocate,
for the petitioner.

Mr. Vishal Garg, Additional AG, Haryana.

Mr. Gourave Bhayyia, Advocate,
for respondent No.4.

SURYA KANT, J. (Oral)

This petition is directed against orders dated 9.10.2015 and 13.10.2016 passed by the Commissioner, Ambala Division and the Financial Commissioner, Haryana respectively, whereby the order of the Collector vide which the suit for declaration filed by respondents No.4 and 5 was dismissed, has been set aside and the matter has been remanded to the Collector for fresh adjudication after taking into consideration the report of consolidation so as to find out whether the land in question was allotted to the petitioner during consolidation and was not in excess to his share in *Shamlat Deh*.

The Commissioner as well as the Financial Commissioner have

observed that the necessity to remand the case arose keeping in view the fact that the Collector though has held that the writ petitioner is in continuous cultivating possession of the land in dispute for more than 12 years prior to Punjab Village Common Lands (Regulation) Act, 1961 came into force but it has not been ascertained as to whether the land in question was allotted in view of the land allegedly in his possession prior to consolidation and to what extent the petitioner has the share in *Shamlat Deh*.

We have heard learned counsel for the parties. No serious prejudice has been caused to the petitioner by the remand order. The respective shares of the petitioner and respondent Nos. 4 and 5 and their entitlement to corresponding holdings can be determined only after ascertaining as to how much land they owned before consolidation and how much land was allotted to them in lieu of old khasra numbers at the time of consolidation. This finding of fact can be arrived at only after summoning the record of consolidation. Since the Collector has decided the *lis* without referring to such record, we are satisfied that the Commissioner and the Financial Commissioner have rightly remanded the case.

Since the case has been remanded to the Collector for fresh adjudication, it is clarified that the observations made by the Commissioner and the Financial Commissioner shall be treated as tentative in nature and shall cause no prejudice to the petitioner or to his defence plea, which he may take before the Collector.

With these clarifications, the writ petition stands dismissed.

The Collector, Kaithal is directed to decide the matter expeditiously and preferably within a period of four months.

Parties are directed to appear before the Collector, Kaithal on 08.08.2017.

**(SURYA KANT)
JUDGE**

**July 18, 2017
poonam**

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned Yes

Whether reportable No