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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 23.05.2017

1.

CWP-24851-2016

Ajay Pal

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

2.

CWP-25202-2016

Krishan Kumar and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sandeep Khunger, Advocate
for the petitioner.

Mr. Yatinder Sharma, Addl. A.G., Punjab
for respondent Nos.1 and 2.

Mr. Suresh Kumar Aneja, Advocate
for respondent Nos.3 and 4.

Mr. C.M. Munjal, Advocate
for respondent No.7.

Mr. Peeush Gagneja, Advocate
for respondent No.8.

AMIT RAWAL, J. (ORAL)

Reply filed on behalf of the State in both case, is

taken on record.

Copy given.

This order of mine shall dispose of two writ petitions bearing CWP No.24851 of 2016 titled as “Ajay Pal V/s State of Punjab and others” and CWP No.25202 of 2016 titled as “Krishan Kumar and others V/s State of Punjab and others”, filed against the order dated 25.02.2016 of the Financial Commissioner, whereby the revision petition of the petitioner preferred against the orders dated 22.02.2011 and 30.04.1996 passed by the Commissioner and Collector, respectively, has been dismissed.

Mr. Sandeep Khunger, learned counsel appearing on behalf of the petitioner-LR of big landowners submits that the order of the Collector was assailed before the Commissioner, who without noticing the certain documents dismissed the appeal vide order dated 22.02.2011 (Annexure P-4). Since there was an error apparent of record, restrained to file two review applications and the grounds noticed in the order and the Commissioner accepted the review applications by holding that all the applications of the surplus area of landowners cannot be decided collectively, but independently and remanded back the matter to the Collector. The aforementioned order was assailed by Nirmal Singh-allottee of the aforementioned plot, by filing the ROR Nos.44 and 45 of 2011 before the Financial Commissioner, which set aside the order on two points; review applications were not maintainable, much less, the allottees were not heard, but the order is silent with regard to the consequential effect. In support of his contentions, he relies upon the ratio decidendi culled out by the Full Bench of this Court in “Sardara Singh and others V/s The Financial

Commissioner and others" 2008 (2) RCR (Civil) 744.

thus, urges this Court for setting aside the impugned order, under challenge.

Mr. Suresh Kumar Aneja, Advocate, Mr. C.M. Munjal, Advocate and Mr. Peeush Gagneja, Advocate, representing the respondent Nos.3 & 4, 7 and 8, respectively, submits that review Court could not recall the order by remitting to the Collector, in the absence of the private respondent(s), being allottees/tenants/purchasers, as they were party in the main appeal. Though the order of the Financial Commissioner do not indicate the fallout of its observations, but the fact remains that orders dated 07.06.2011 (Annexure P-5) of the Commissioner, was not sustainable and rightly so, has been set aside by the Financial Commissioner, thus, urges this Court for dismissal of the writ petitions.

I have heard the learned counsel for the parties and appraised the paper book.

No doubt the order of the Commissioner dated 07.06.2011 (Annexure P-5), noticing the certain facts, particularly the cases of each of the landowners to be decided separately, allowed the review application, but did not afford the opportunity to the aforementioned persons, represented by the private respondents, being the party in the appeal. This is what is import of the Financial Commissioner, but resultant outcome of the order of the Financial Commissioner, has left the party in-oblivion. I am of the view that order of the Financial Commissioner, in such circumstances, cannot be sustained as the Financial Commissioner ought to have remitted the matter to the Commissioner to decide the review application afresh, after

affording opportunity to the private respondent(s) being the party before the appellate Court.

Keeping in view the aforementioned facts, order dated 25.02.2016 passed by the Financial Commissioner is not sustainable in the eyes of law and the same is hereby set aside. The matter is remitted to the Commissioner, who shall decide the review applications afresh, after affording the opportunity to the private respondent(s), much less, in accordance with law, as expeditiously as possible preferably within a period of three months from the date of receipt of the certified copy of this order.

The parties or through their counsel are directed to appear before the Commissioner, Ferozepur Division, Ferozepur on 02.06.2017.

Status quo qua possession as granted by this Court shall be maintained till the pendency of the review application.

Disposed of, accordingly.

23.05.2017
Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No