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

CWP-27445-2016

Date of decision : 09.01.2017

Jai Bhagwan and others

... Petitioners

Versus

Financial Commissioner, Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Manoj Chahal, Advocate
for the petitioners.

Mr. D. Khanna, Addl. A.G., Haryana.

AMIT RAWAL, J. (ORAL)

The petitioners are aggrieved of the impugned order dated 31.01.2014 passed by respondent No.1-Financial Commissioner, Haryana, whereby the revision petition at the instance of the private respondents has been accepted.

Mr. Manoj Chahal, learned counsel appearing on behalf of the petitioners submits that the petitioners had preferred an appeal against the order dated 29.02.2004 passed by the Assistant Collector, 2nd Grade and the order dated 18.05.2007 of the Assistant Collector, 2nd Grade, Charkhi Dadri qua sanctioning of the *Naksha* KH and thereafter filed an appeal before the Collector, Charkhi Dadri, and the same was dismissed on 26.02.2009. However, the Commissioner, Haryana Division (Camp Bhiwani), after hearing the parties, passed the following order:-

“After hearing the arguments of both the parties and observing

the facts on record, I came to the conclusion that mainly the partition is proper except the fact that Revisionists and Sh. Chotto etc., given land in two parts in Khasra Nos.65 and 68 which should be tried to give in one part. Revision is being decided accordingly. Record of the lower Court be returned”

The aforementioned order was assailed by the private respondents by filing the revision petition before the Financial Commissioner, Haryana and the Financial Commissioner, Haryana, after hearing the arguments, allowed the same vide order dated 31.01.2014. The relevant portion of the order reads thus:-

“5. I have considered the contentions of the Learned Counsel for the parties and have gone through the record which reveal that Learned Commissioner has partially modified the orders passed by the Lower Revenue Courts directing that the land given to the Contesting Respondents and Smt. Chhoti Devi etc., in rectangle No.65 and 68, which has been given in two parts, may be given in one piece. It has also been observed by him that part from this, rest of the partition has been done in a proper manner. Collector has also found that the partition was made as per provisions of the mode of partition and he has upheld the order passed by Assistant Collector, 2nd Grade. Learned Commissioner has also observed the same except the observation made by him regarding clubbing of pieces in rectangle No.65 and 68, allotted to respondents Jai Bhagwan and Chotti Devi etc., on this issue, Learned counsel for the petitioners has argued that since land in these rectangles is of inferior quality and it is located adjacent to village Charagah, it should be shared by all the co-sharers or else, if the respondents want land at one place, let them take this land in one piece it appears that Respondents are trying not to take any share in this land which has the stated handicap. Insofar as the issue of unnecessary pathways is concerned, it has

neither been established before the Lower Revenue Court, nor accepted by them. Keeping in view the above mentioned facts and circumstances, I am of the view that partition has been carried out in a fair manner and in accordance with provisions of mode of partition, and there is no justification for interference. Therefore, the order passed by the Assistant Collector 2nd Grade and Collector, are upheld and the order of remand passed by Learned Commissioner is set a side. Revision petition is accepted. To be communicated”.

He further submits that the pith and substance of the order dated 31.01.2014 passed by the Financial Commissioner, Haryana does not make any head and tail, though, the observations are in favour of the petitioners, but yet the revision of the private respondents has been allowed.

Notice of motion.

Mr. D. Khanna, Addl. A.G., Haryana, accepts the notice on behalf of the State and submits that there is a gross illegality and perversity in the order. It is not happily worded, though, the analysis of the order indicates the allowing of the revision filed by the private respondents.

I have heard the learned counsel for the parties and appraised the paper book and of the view that the order, aforementioned, does not make any head or tail for accepting revision petition. Once, it is acknowledging the observations given by the Financial Commissioner, Haryana, the Financial Commissioner should have been more specific and explicit in giving the reasoning, much less, should have been dealt with the revision petition in a pragmatic manner. All these aforementioned essential ingredients are conspicuously wanting.

For the foregoing reasons, the impugned order dated

31.01.2014 is hereby set aside and the matter is remitted back to the Financial Commissioner, Haryana to decide the same, after hearing the parties i.e. State and as well as the private party as expeditiously as possible preferably within a period of three months from the receipt of the certified copy of this order, in accordance with law.

Learned counsel for the parties and as well as the parties are directed to appear before the Financial Commissioner, Haryana.

I do not deem it appropriate to issue notice to the private respondents as issuance of notice and engaging of the counsel would be more expensive.

With the aforesaid observations, the writ petition stands disposed of.

09.01.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned

Yes/ No

✓

Whether Reportable

Yes/ No