

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

CWP No. 27095 of 2017

Date of Decision: 11.12.2017

RAJ KUMAR

..... Petitioner

V/S

FINANCIAL COMMISSIONER (APPEALS), PUNJAB AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. Amandeep Singh Manaise, Advocate,
for the petitioner.

RAKESH KUMAR JAIN, J. (Oral)

This petition is filed against the order dated 28.04.2017 passed by the Financial Commissioner (Appeals), Punjab. Aggrieved against the order dated 30.09.2015, passed by the Assistant Collector Ist Grade, Abohar, by which the partition proceedings have been finalized, an appeal was filed before the Collector, Abohar but the petitioner did not appear in the appeal, therefore, the said appeal was dismissed for non-prosecution on 30.03.2016.

Learned counsel for the petitioner submits that since the Collector had no jurisdiction, therefore, the petitioner did not file any application for getting it restored and had rather filed the revision petition straightaway before the Financial Commissioner who has dismissed the same on the ground that the petitioner should have availed the remedy of filing an application before the Collector for getting the appeal restored. Learned counsel for the petitioner submits that it would be a futile exercise because the Collector does not have the jurisdiction to decide the appeal filed against the order dated 30.09.2015.

After hearing learned counsel for the petitioner and examining the record, am of the considered opinion that there is no error in the order dated 28.04.2017 of the Financial Commissioner because the petitioner had already availed the remedy of appeal, in which he did not appear and got it dismissed for non-prosecution. The petitioner is only assuming that the Collector does not have the jurisdiction to decide the appeal and did not file any application to get the appeal restored by recalling the order dated 30.03.2016. Had any such application been filed, the Collector would have passed an appropriate order in the same but the petitioner cannot straightaway challenge the order dated 30.09.2015 of the Assistant Collector Ist Grade by way of a revision petition before the Financial Commissioner, who has rightly dismissed the revision petition on the ground that the petitioner has the remedy of restoration of appeal by filing of an application before the Collector at the first instance.

In view of the above, I do not find any merit in the present petition and the same is hereby dismissed, though without any order as to costs.

December 11, 2017

Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

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