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

CWP No.4140 of 2017
Date of decision:02.03.2017

Ram Narain ... Petitioner

Vs.

The Financial Commissioner (Revenue), Punjab and others
... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. A.K.Chopra, Senior Advocate with
Mr. Akshit Chaudhary, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

Notice of motion.

On asking of the Court, Mr. Yatinder Sharma, learned Additional Advocate General, Punjab accepts notice on behalf of the respondents-State.

The prime contention other than the one taken in the writ petition of Mr. Ashwani Chopra, learned Senior Counsel assisted by Mr. Akshit Chaudhary, Advocate is that the order dated 21st September, 1999 (Annexure P-12), whereby, the Collector (Agrarian), Fazilka had given a liberty to the parties to change the selection of the land, was set aside by order dated 22.1.2002 (Annexure P-13), in view of the provisions of Section 5-B(1) of the Punjab Land Reforms Act, 1972 (hereinafter referred to as “1972 Act”). Thereafter, the proceeding under Section 13(1) of 1972 Act, for bifurcation of the land already declared surplus amongst the co-owners was initiated, resulting into decision thereof, in accordance with law, vide order dated 19.01.2004 (Annexure P-14). However, the appeal preferred against the same, vide order dated 29.01.2009 (Annexure P-15) had been dismissed by the Commissioner but the Financial Commissioner in a most mechanical and sketchy manner has not only set aside the impugned order but also ordered for restoration of the order dated 21.09.1999 which had already been set aside, vide order dated 22.01.2002 (Annexure P-13), already attained finality. In this regard, he has drawn the attention of this Court to the findings arrived at by the Financial Commissioner which read as under:-

> *"I have carefully considered the rival contentions and have gone through the record of the case. Having done so, I am of the view that these petitions deserve to succeed, on the grounds enumerated by the petitioners' counsel as well as Senior State Counsel. To allow the land owner to contend that the land he had sold should now be put in his surplus pool would defeat the very purpose of the land reforms legislation. It is for this reason the Act provides that the transfers made after the appointed date shall be excluded while calculating the surplus area. This stipulation cannot be use to defeat the rights of the small land owners who are bonafide transferee. I therefore feel that the order dated 21.9.99 of the Collector vide which land in village Chuhriwala Dhanna was declared surplus rather than*

the land already sold by the land owner deserves to be upheld.

These petitions are therefore accepted, the impugned orders are set aside and the order dated 21.9.199 of the Collector is confirmed."

On going through the aforementioned finding, I am of the view that the Financial Commissioner, who is the Head of all quasi-judicial authorities in respect of the proceedings initiated under the revenue matters, is expected and obliged to pass a detailed order by touching all the rival contentions of the parties to the lis, much less in accordance with law and also expected to give reasons. Though the order aforementioned is not only lacking reasons, but was also challenged in CWP No.21789 of 2014 and on 11.12.2014, the same was dismissed as withdrawn with the liberty to file a fresh on the same cause of action after incorporating the relevant amendments. However, the explanation given in approaching this Court is that due to family problems, financial constraint and ill health, he could not file the writ petition earlier which is reflected in paragraph 21 of the writ paper book.

Be that as it may, the fact remains that the order aforementioned, in my view does not conform to the test of reasonableness and thus, liable to re-examination of judicial review.

I have also already in the cases of State of Haryana, vide CWP No.1491 of 2017, issued a direction to the Chief Secretary to appoint one Financial Commissioner, who will deal with all the matters in order to have consistency and avoid different opinion. The consistency in the revenue matter is most crucial for determining the rights of the parties or to the lis. Even in the matter of State of Punjab, the same practical problem is being faced by the Court as and when the matters are being filed. The orders do not conform to the standard of legitimate expectation and reasonableness.

Thus, I do not deem it appropriate to issue notice of motion to the private respondents instead remand the matter back by setting aside the impugned order in order to defray the costs of litigation and wastage of time when the order apparently is not only preposterous, much less repugnant.

Resultantly, the impugned dated 11.02.2014 is hereby set aside and the matter is remitted back to the Financial Commissioner (Revenue), Punjab to decide ROR afresh expeditiously by affording the opportunity of addressing to the parties to the lis and thereafter, pass a detailed and speaking order, i.e., after examining all the orders and contentions of the parties.

Let this exercise be done after hearing the other party within a period of three months from the date of receipt of a certified copy of this order.

Accordingly, the writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

March 02, 2017
savita

Whether Speaking/Reasoned Yes/No

Whether Reportable Yes/No