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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 26.04.2017

1. CWP-8657-2017

Avtar Singh

... Petitioner(s)

Versus

Financial Commissioner (Appeals), Punjab and others

... Respondent(s)

2. CWP-8658-2017

Chinna Singh

... Petitioner(s)

Versus

Financial Commissioner (Appeals), Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Anish Setia, Advocate
for the petitioner(s).

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two writ petitions bearing **CWP No.8657 of 2017** titled as **“Avtar Singh V/s Financial Commissioner (Appeals), Punjab and others”** and **CWP-8658-2017** titled as **“Chinna Singh V/s Financial Commissioner (Appeals), Punjab and others”**, filed against the impugned order dated 15.03.2017 (Annexure P-4) passed by respondent No.1, whereby the interim order dated 11.01.2012 has been vacated.

Mr. Anish Setia, learned counsel appearing on behalf of the petitioner(s) submits that already an interim stay had been granted vide order dated 11.01.2012. Once the revision petition was pending, there was no special occasion for the authority/Financial Commissioner, to vacate the stay i.e. without addressing any arguments.

For the sake of brevity, the impugned order dated 15.03.2017 reads as under:-

"The counsel for the petitioner is present. Sh. Paramjit Rajput submitted his Power of Attorney on behalf of Sukhdev Raj LR of Gura, which is taken on record. The Counsel for the petitioner requested for adjournment. The same is allowed. To come up on 09.08.2017. The stay granted on 11.01.2012 is vacated."

Notice of motion.

Mr. Yatinder Sharma, Addl. A.G., Punjab accepts notice on behalf of the State/respondent Nos.1 to 4.

Without issuing the notice to the private respondent(s), I am of the view that such type of orders are not sustainable in the eyes of law particularly when the revision is pending and no special circumstances have been pointed out by the Financial Commissioner for vacating the stay, particularly when no arguments in separate on stay application were addressed either by the parties, particularly on behalf of the petitioner, represented by Mr. R.S. Chauhan, Advocate.

Keeping in view the aforementioned facts, the impugned order, under challenge, is not sustainable in the eyes of law being opaque and arbitrary and the same is hereby set aside. The matter is remitted back to the

Financial Commissioner and the Financial Commissioner is directed to decide the revision, instead of pondering upon the arguments on stay application within a period of one month from the date of the receipt of the certified copy of this order.

In the meantime, the stay granted vide order dated 11.01.2012 is ordered to be restored.

With the aforesaid observations, both the writ petitions are allowed.

26.04.2017
Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned **Yes**

Whether Reportable **No**