IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

COCP-2086-2016
Date of Decision: 01st August, 2018

Kamaljit Kaur & others

...Petitioners

Versus

Kanwar Narinder Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Ram Kumar Chauhan, Advocate,
for the petitioners.

Mr. Rajbirinder Singh Chahal, Addl. A.G. Punjab.

Mr. Shamsher Singh Gill, Advocate
for the respondent.

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AUGUSTINE GEORGE MASIH, J.

Petitioners had filed this contempt petition alleging willful and intentional disobedience of the order dated 15.07.2014 (Annexure P-1) passed by the Financial Commissioner Revenue, Punjab, in RR No.89 of 2014, titled as 'Kamaljit Kaur & others Vs. Manjit Kaur & others', by the respondent, who was working as Assistant Collector 1st Grade, Payal, District Ludhiana.

2. It is the contention of the learned counsel for the petitioners that on 15.07.2014, the Financial Commissioner Revenue, Punjab, had, in reference from Commissioner, Patiala Division, Patiala, i.e. RR No.89 of 2014, allowed the miscellaneous application No.38 of 2014 filed by the petitioners praying for staying the proceedings pending before the Assistant Collector 2nd Grade (Naib Tehsildar), Payal and proceedings before the

Assistant Collector 2nd Grade, were stayed vide order dated 15.07.2014 (Annexure P-1). This order, according to the petitioners, was supplied to the respondent on 29.07.2014. Despite the said order having been conveyed, respondent continued with the proceedings and issued *sanad takseem* on 02.02.2015, which establishes the intentional violation of the order passed by the Financial Commissioner Revenue, Punjab, dated 15.07.2014 (Annexure P-1) rendering the respondent liable to be proceeded under the Contempt of Courts Act, 1971.

3. Counsel for the respondent, while referring to the reply which has been filed by the respondent, submits that the respondent had never received the copy of order dated 15.07.2014 (Annexure P-1) passed by the Financial Commissioner Revenue, Punjab. The mode of serving the copy of the stay order upon the respondent has not been mentioned in the petition. Respondent had sought a report from the Halka Patwari, Barmalipur and the Reader of the office of Tehsildar regarding any entry relating to the receipt of order dated 15.07.2014 (Annexure P-1) passed by the Financial Commissioner Revenue, Punjab, but they have reported that they have not received the copy of the said order prior to the issuance of order of *sanad takseem* on 02.02.2015. He, therefore, prays for the dismissal of the contempt petition.

4. When this case came up for hearing on 18.04.2017, following order was passed:-

> "In compliance, State Counsel has produced the relevant record, however, the *zimni* orders are in Punjabi, therefore, he prays for time to place on record the entire

> sequence of facts w.e.f. 15.07.2014 till 02.02.2015, including the *zimni* orders relating to both (i) the partition proceedings pending before the Assistant Collector Grade-I, Payal (ii) as well as revisional proceedings before the Financial Commissioner, Revenue.
>
> Let the needful be done through an affidavit of the Secretary Revenue, Punjab. The officials responsible for not communicating the orders to the quarter concerned be also identified.
>
> List on **29.05.2017.**"

5. In compliance with the above order, an affidavit dated 30.05.2017 has been filed by the Secretary, Government of Punjab, Department of Revenue, Rehabilitation and Disaster Management. Perusal of the same would show that RR No.89 of 2014 and miscellaneous application No.38 of 2014 remained pending and was finally disposed of/dismissed by the Financial Commissioner Revenue, Punjab, vide order dated 10.08.2016 as having become infructuous.

6. As regards the order dated 15.07.2014 (Annexure P-1) staying the proceedings by the Financial Commissioner Revenue, Punjab, before the Court of Assistant Collector 2nd Grade (Naib Tehsildar), Payal, it has been stated that the said order was sent by post but the same was returned by the postal authorities with the remarks 'insufficient address'. It has further been submitted that the office of the Financial Commissioner Revenue, Punjab, failed to re-communicate the stay order after it was received back from the postal authorities. It has also been stated that the counsel for the petitioners had applied for the certified copy of the order dated 15.07.2014 passed by

the Financial Commissioner Revenue, Punjab, on 21.07.2014 and the certified copy of the said order was received by him on 30.07.2014, however, the counsel for the petitioner asserts that the same was supplied on 29.07.2014 as pleaded in the contempt petition (para 13), which is not possible. Even the miscellaneous orders passed in the reference, as appended along with the affidavit of the Secretary, Government of Punjab, Department of Revenue, Rehabilitation and Disaster Management, do not indicate that the respondent was ever supplied the copy of the stay order or was made aware of such an order having been passed by the Financial Commissioner Revenue, Punjab, staying the proceedings before him.

7. In view of the above, it cannot be concluded that the order dated 15.07.2014 (Annexure P-1) passed by the Financial Commissioner Revenue, Punjab, was ever conveyed to the respondent. In the light of the fact that the said order was not to the knowledge of the respondent, it cannot be held that the respondent has intentionally not complied or violated the order dated 15.07.2014 (Annexure P-1) passed by the Financial Commissioner Revenue, Punjab and has, thus, committed contempt.

8. Accordingly, there being no merit in the present contempt petition, the same stands dismissed.

9. Rule issued to the respondent stands discharged.

(AUGUSTINE GEORGE MASIH)
JUDGE

01st August, 2018
Harish

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