IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.10048 of 2018
Date of Decision: 02.05.2018

Bahadur Singh ....Petitioner

Versus

Financial Commissioner, Punjab and others ...Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Ravish Bansal, Advocate
for the petitioner.

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DAYA CHAUDHARY, J.

The prayer in the present petition is for issuance of a writ in the nature of certiorari for quashing impugned order dated 12.03.2018 (Annexure P-12), passed by the Financial Commissioner, Punjab, whereby order dated 14.01.2015 (Annexure P-4), passed by the Commissioner, Faridkot Division, Faridkot has been affirmed and orders dated 08.08.2013 and 30.09.2014 (Annexures P-2 and P-3, respectively), passed by the Assistant Collector 1st Grade, Bathinda and the Collector Bathinda, respectively, have been set aside and mutation sanctioned in favour of petitioner has been rejected.

Being aggrieved by the order of entering mutation, the private respondents filed appeal before the Collector but he affirmed order dated 08.08.2013 passed by the Assistant Collector 1st Grade. The appeal filed by the respondents was dismissed. Thereafter, revision was filed before the Commissioner, which was allowed on 14.01.2015. Said order dated 14.01.2015 was challenged in appeal filed before the Financial

Commissioner but it was dismissed vide order dated 12.03.2018.

Order dated 12.03.2018 passed by the Financial Commissioner, Punjab is the subject mater of challenge in the present petition.

Learned counsel for the petitioners submits that the impugned order is totally non-speaking and same has been passed without taking into consideration the grounds of appeal and same is without any application of mind. Learned counsel also submits that the private respondents are neither the legal heirs of deceased Narain Singh nor they purchased the land from him. They did not inherit any right from deceased Narain Singh and as such they have no *locus standi* to contest the mutation. Learned counsel also submits that none of the contentions raised by the petitioners were taken into consideration while passing the impugned order. Learned counsel also submits that learned Financial Commissioner has failed to consider that the respondents filed counter claim in the suit for permanent injunction qua the property in dispute filed by petitioners before learned Civil Judge (Senior Division), Bathinda, wherein they sought declaration to the effect that the order passed by the Assistant Collector 1st Grade be set aside and mutation be rejected. Learned counsel also submits that respondents cannot claim the same relief before two different courts. Once they have challenged setting aside of orders whereby mutation was sanctioned in favour of the petitioners by the Civil Court, they cannot claim the same relief before the revenue authorities. Learned counsel also submits that the judgment of Civil Court is binding upon the revenue Court. At the end, learned counsel for the petitioners submits that learned Financial Commissioner has not given any specific finding by considering the grounds of appeal raised by learned counsel for the petitioners.

Heard arguments of learned counsel for the petitioners and have also perused impugned order dated 12.03.2018 (Annexure P-12) passed by learned Financial Commissioner, whereby order dated 14.01.2015 (Annexure P-4) passed by the Commissioner has been affirmed and orders dated 08.08.2013 and 30.09.2014 (Annexures P-2 and P-3, respectively), passed by the Assistant Collector 1st Grade, Bathinda and the Collector Bathinda, respectively have been set aside.

On perusal of the impugned order passed by learned Financial Commissioner, it is apparent that the same is reproduction of the order passed by the Commissioner and in the end of the order, it has been mentioned that the order passed by the Commissioner, Faridkot is detailed one and the Commissioner after considering the facts, rejected the mutation in question and that there was no reason/ground to interfere with the order of the Commissioner. It is apparent that no specific findings have been recorded by learned Financial Commissioner and the grounds of appeal have not been taken into consideration. Only the order passed by the Commissioner has been reproduced. Accordingly, the order passed by learned Financial Commissioner is totally non-speaking and is without any application of mind. The principles of natural justice are required to be followed as it is necessary to give reasons while reaching to a conclusion.

Moreover, the Financial Commissioner is the final and last authority in the hierarchy of revenue officers and he is supposed to pass an order accepting or rejecting the contentions. Financial Commissioner is not only the highest revenue court but a quasi judicial authority under law, but non-considering the legal contentions of the petitioners and non-recording of reasons for disagreement, has resulted into passing of an illegal and prejudicial order. It appears that the order has been passed with predetermined mind and without any application of mind. Moreover, the mutation of inheritance has to be sanctioned in favour of either of the party and the same cannot be kept in abeyance as inheritance never remains in abeyance. Name of a dead person cannot be kept pending while reflecting in the revenue record. The same issue was there before Division Bench of this Court in case titled as ***Jagjit Singh Vs. Divisional Commissioner, Patiala and others 2012 (13) RCR (Civil) 96*** as to whether the mutation of inheritance can be kept in abeyance specially when the mutation does not confer any title and is entered with a view to update the revenue record. It is also settled principle of law that mutation proceedings cannot be kept in abeyance even during the pendency of the dispute before the Civil Court and as such, the revenue officers are duty bound in terms of statute to enter mutations in exercise of their administrative functions. In a latest judgment, in case ***Rajinder Singh Vs. State of Haryana and others 2017 (4) RCR (Civil) 153,*** this Court has held that the natural succession cannot be kept in abeyance.

In the present case, the respondents neither claim to be legal heirs of deceased Narain Singh nor they are claiming to be vendees of deceased Narain Singh, rather they were not having any relation and even are not remotely inheritance of deceased Narain Singh.

Accordingly, it can safely be said that the learned Financial Commissioner while passing impugned order has failed to appreciate that he was deciding the first appeal of the petitioners and for that, the entire evidence was to be appreciated in proper prospective and passing a copy-paste order of learned Commissioner, has defeated the very purpose of filing the appeal. The impugned order passed by learned Financial Commissioner is totally non-speaking and without any application of mind and same is liable to be set aside.

For the foregoing reasons, impugned order dated 12.03.2018 (Annexure P-12) is hereby set aside with the direction to respondent No.1 to reconsider the appeal afresh and pass a fresh well reasoned and detailed order after considering the contentions/grounds raised by the petitioners as well as facts of the case in accordance with law.

It is also directed that respondent No.1 while reconsidering the appeal is not to be influenced by the earlier order.

The writ petition is disposed of with said directions.

(DAYA CHAUDHARY)
02.05.2018 **JUDGE**
gurpreet

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No