IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Writ Petition No.1153 of 2017
Date of Decision: September 16th, 2019

Bijender Singh

...Petitioner

Versus

Financial Commissioner, Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Chirag Wadhwa, Advocate
for the petitioner.

Mr. Ravi Partap Singh, Assistant Advocate General, Haryana.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 04.07.2016 (Annexure P-5) passed by the Financial Commissioner, Haryana, order dated 21.11.2013 (Annexure P-4) passed by the Commissioner, Rohtak Division, Rohtak, and the order dated 11.04.2008 (Annexure P-3) passed by the Collector, Karnal, whereby the *khasra girdawaris* have been changed and the appeal preferred by respondent No.4 has been allowed without impleading the petitioner as a party, with a revision petition preferred by the petitioner resulting in dismissal thereof.

2. It is the contention of learned counsel for the petitioner that originally the *khasra girdawaris* were sanctioned in favour of the predecessor-in-interest of the petitioner namely Sabira and Liyakat sons of Shri Neki. Prior to the filing of the appeal by the private respondent, petitioner purchased the possessory rights of the said land vide registered sale deed dated 05.04.2006 (Annexure P-1). Mutation was also accordingly sanctioned and his name was entered in the *jamabandi* for the year 2006-07. Appeal which has been preferred by the private respondent before the Commissioner was filed on 12.09.2007 which was decided on

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11.04.2008 (Annexure P-3), where the predecessor-in-interest of the petitioner namely Sabira and Liyakat, who are impleaded as respondents but chose not to appear before the Appellate Authority for obvious reasons that they had no interest lying in the land as far as possessory rights are concerned since the petitioner had purchased the same. In the absence of the petitioner, the appeal of the private respondent was accepted. Petitioner thereafter filed an appeal before the Commissioner, Rohtak Division, Rohtak, on 28.08.2009, which was dismissed vide order dated 21.11.2013 (Annexure P-4) on the ground that the petitioner has not been able to substantiate the factum that the title had been transferred in the name of Sabira and Liyakat. Revision petition was also dismissed on 04.07.2016 (Annexure P-5) by the Financial Commissioner leading to the filing of the present writ petition. Counsel for the petitioner contends that when the revenue record clearly reflected that the petitioner was in possession of the land, he was required to be impleaded as a party to the appeal which was preferred by the private respondent after a lapse of 2½ years from the initial date of entering of the *khasra girdawaris*. His contention is that the revenue authorities also without looking at the latest *jamabandi* at that relevant time, proceeded to decide the appeal. He, thus, contends that the order which has been passed at the back of the petitioner, cannot be held binding upon him.

3. Counsel for the State could not dispute the factual assertions, as have been put forth by the counsel for the petitioner and recorded above.

4. None has put in appearance on behalf of private respondent No.4 despite service.

5. In the light of the above and keeping in view the documentary evidence on record, especially the *jamabandi* for the year 2006-07

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(Annexure P-6), which clearly reflects the petitioner, who is shown to be the cultivator of the land which is a subject matter of the appeal and the revisions before the revenue authorities, the said orders cannot sustain and deserve to be set aside by allowing the present writ petition.

6. In view of the above, this writ petition is allowed and the impugned orders are set aside. The case is remanded to the Collector, Karnal-respondent No.3 for fresh decision after notice to the parties and hearing them.

September 16th, 2019 **(AUGUSTINE GEORGE MASIH)**
Puneet **JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No

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