

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

103

**CIVIL WRIT PETITION NO.15586 OF 2017
DATE OF DECISION: SEPTEMBER 23, 2019**

Avtar Singh

.....Petitioner

VERSUS

State of Haryana and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sanjeev Gupta, Advocate,
for the petitioner.

Mr. Manish Dadwal, AAG, Haryana,
for the State.

Mr. Suman Jain &
Mr Shubham Jain, Advocates,
for respondent No.4.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Challenge in this writ petition is to the order dated 25.05.2016 (Annexure P-7); order dated 30.06.2016 (Annexure P-8) and order dated 30.05.2017 (Annexure P-10) vide which order dated 20.05.2016 (Annexure P-3) passed by the Tehsildar has been set-aside.

On 19.07.2017, when notice of motion was issued, the following order was passed:-

“Counsel for the petitioner has submitted that at the time of consolidation though the holding of the petitioner was consolidated but there was a deficiency of area of 13 marlas of

the land. In this regard, the petitioner moved an application for making up of the deficiency of the land owned by him. The said application was decided in his favour by the Assistant Collector-cum-Consolidation Officer-Tehsildar on 20.05.2016. It is submitted that no appeal was filed against the said order but representation was made by the respondents before the Commissioner, Gurgaon Division, Gurgaon on the basis of which the ex-parte order dated 30.06.2016 was passed and the order dated 20.05.2016 was set aside. The petitioner challenged that order before the Financial Commissioner but the Financial Commissioner, without adverting to the fact that an order passed in favour of the petitioner has been set aside by the higher authority even without issuing notice to him dismissed the revision petition on other issues.

Counsel for the petitioner inter-alia contends that once there is an order passed in his favour by the Collector by which deficiency of area of land caused at the time of consolidation has been made good, the said order cannot be reversed without giving an opportunity of hearing as it is against principles of natural of justice as well as principle of audi alteram partem.

Notice of motion for 18.09.2017.

Till then, the parties shall maintain status-quo in regard to possession of the land in question.”

Learned counsel for respondent No.4 (contesting), on the basis of the record, has very fairly conceded the fact that the matter requires to be

remanded back to the Commissioner for fresh decision in the light of the pleas taken by the petitioner that neither the principles of natural justice have been complied nor any hearing has been given, and, thus, no opportunity to put forth his claim has been afforded to him.

In view of the records and keeping in view the fact as detailed in order dated 19.07.2017, the present writ petition is allowed to the extent that the order dated 30.06.2016 (Annexure P-8) passed by the Commissioner, Gurugram Division, Gurugram and as a consequence thereof order dated 30.05.2017 (Annexure P-10) passed by the Financial Commissioner, Revenue, Haryana, are hereby set-aside. The case is remanded back to the Commissioner, Faridabad, for fresh decision on consideration of the respective submissions of the parties. The parties, through their counsel, are directed to appear before the Commissioner, Faridabad, on **30.10.2019**. The Commissioner shall thereafter make an endeavour to decide the same at an early date preferably within a period of four months from the said date.

Status-quo with regard to possession be maintained till the disposal of the matter before the Commissioner, Faridabad.

Since the main writ petition stands disposed of, no orders are required to be passed on the pending applications.

September 23, 2019
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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