IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.M. NO.7842-CWP-2018 &
CIVIL WRIT PETITION NO.24206 OF 2017
DATE OF DECISION: AUGUST 27, 2019

Rachhpal Singh

.....Petitioner

VERSUS

Financial Commissioner (Appeals), Punjab, Chandigarh and others

....Respondents

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

Present: Mr. B.S.Jaswal, Advocate,
for the petitioner.

Mr. T.P.S.Chawla, DAG, Punjab,
for the State-respondent No.1.

Mr. Rai Singh Chauhan, Advocate,
for respondent Nos.2 and 3.

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AUGUSTINE GEORGE MASIH, J.

Reply to C.M. No.7842 of 2018 filed in Court has been taken on record. Copy supplied to counsel for respondent Nos.2 and 3.

2. Challenge in this writ petition is to the order dated 14.12.2016 (Annexure P-8) passed by the Financial Commissioner (Appeals), Punjab-respondent No.1, whereby the revision petition preferred by respondent Nos.2 and 3 has been accepted and the case remanded back to the Assistant Collector Ist Grade for fresh decision. Further prayer has also been made for upholding the order of final partition dated 10.05.2005 (Annexure P-2) passed by the Assistant Collector Ist Grade, Batala as the appeal of

respondent Nos.2 and 3 was dismissed by the Commissioner, Jalandhar Division, Jalandhar, vide order dated 08.09.2009 (Annexure P-5).

3. Learned counsel for the private respondents has filed an application i.e. C.M. No.7842 of 2018 for disposal of the writ petition in the light of the fact that the impugned order dated 14.12.2016 (Annexure P-8) passed by the Financial Commissioner (Appeals) stood implemented by the Assistant Collector Ist Grade on 17.10.2017 (Annexure R2/1). This fact has neither been disclosed by the petitioner in the writ petition nor at the time when the case came up for hearing on 26.10.2017, when notice of motion was issued by this Court. He contends that the present writ petition has been rendered infructuous as the said order stands implemented and after the passing of the order dated 17.10.2017, the private respondents had filed revision petition before the Financial Commissioner, in which status-quo has been ordered to be maintained vide order dated 09.11.2017. After the passing of the said order, the Financial Commissioner, after hearing the parties, has again disposed of the case, remanding it back to the Assistant Collector Ist Grade vide order dated 08.05.2018. He, therefore, contends that the present writ petition, whereby challenge has been made to the initial order of remand dated 14.12.2016 (Annexure P-8), after the passing of the fresh order of disposing of the revision petition, has been rendered infructuous. He, thus, contends that the writ petition deserves to be disposed of accordingly. Assertion has also been made for dismissal of the writ petition for non-disclosure of the true facts before this Court on 26.10.2017, when the case came up for hearing.

4. In the reply, which has been filed by counsel for the non-applicant/petitioner, the stand taken is that the instructions were given by

the petitioner to the counsel on 20.09.2017, which were prior to the date of passing of the order of remand dated 17.10.2017 by the Assistant Collector Ist Grade. The writ petition was drafted by him on 03.10.2017 and was filed on 24.10.2017. The same came up for hearing on 26.10.2017, when notice of motion was issued. He, on this basis, contends that there was no intention on the part of the petitioner to mislead the Court or not to disclose the correct facts. However, the counsel could not dispute the facts as have been stated in the application by the private respondents.

5. I have considered the submissions made by counsel for the parties and with their assistance have gone through the records of the case.

6. The submission of learned counsel for the petitioner that he had been instructed by the petitioner in September 2017 and the writ petition was prepared on 03.10.2017 may be correct. However, the affidavit, which has been filed in support of the writ petition, indicates the date of execution of the said affidavit as 24.10.2017 and, therefore, the contention of learned counsel for the petitioner cannot be accepted that the petitioner was not aware of the fact of passing of order dated 17.10.2017, Annexure R2/1 by the Assistant Collector Ist Grade, especially when he had participated in the proceedings before the said authority. This ground itself is good enough for dismissal of the writ petition.

7. Otherwise also, keeping in view the fact that much water has flown after the passing of the order dated 14.12.2016 (Annexure P-8) by the Financial Commissioner (Appeals), which has been challenged in this case, whereby the case had been remanded for the first time by the Assistant Collector Ist Grade for fresh decision, leading to passing of order dated 17.10.2017 by the Assistant Collector Ist Grade against which the private

respondents had filed a revision petition before the Financial Commissioner, who has further disposed of the same vide order dated 08.05.2018 in the presence of the petitioner, the matter being still under consideration before the Assistant Collector Ist Grade, the writ petition deserves to be dismissed at this stage.

8. Since the petitioner has not disclosed the true facts before this Court, the Court intended to impose costs on him, however, this Court, while taking a lenient view, dismisses the writ petition without costs.

9. As the main writ petition stands dismissed, no separate orders are required to be passed on C.M. No.7842 of 2018.

August 27, 2019 **(AUGUSTINE GEORGE MASIH)**
khurmi **JUDGE**

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