

CWP-22300-2019

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

CWP-22300-2019

Date of Decision: 22nd August, 2019

Mahinder Partap Bathla

...Petitioner

Versus

Financial Commissioner, Revenue-cum-Principal Secretary & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. C.M. Munjal, Advocate, for the petitioner.

AUGUSTINE GEORGE MASI, J. (ORAL)

It is the contention of the learned counsel for the petitioner that the process initiated by the Assistant Collector 1st Grade-cum-Sub Divisional Magistrate, Fazilka, vide notice dated 23.07.2019 (Annexure P-4) regarding mutation No.37667 of village Azimgarh, Tehsil Abohar, District Fazilka, on the basis of the award dated 24.12.2018 (Annexure P-2) passed by the Arbitrator, cannot be a ground for proceeding with the mutation in the light of the fact that the petitioner, on coming to know about the said award having been passed by the Arbitrator, filed an application/petition under Section 34 of the Arbitration and Conciliation Act, 1996, in which, notice has been issued and the same is now pending for 04.11.2019. His further contention is that in the light of the provisions of Sections 36 and 37 of the Arbitration and Conciliation Act, 1996, a revenue officer cannot, on its own, proceed to make an entry and the execution proceedings have to be resorted to by the beneficiary of the award

before the Civil Court. He contends that, on receipt of the notice from the Assistant Collector 1st Grade-cum-Sub Divisional Magistrate, Fazilka – respondent No.2, petitioner had appeared and filed objections dated 06.08.2019 before the said authority, copy of which has been appended as Annexure P-5. The apprehension of the petitioner is that prior to taking a final decision on the issue of mutation, the objections of the petitioner would not be considered and decided. He, thus, contends that a direction may be issued to the Assistant Collector 1st Grade-cum-Sub Divisional Magistrate, Fazilka – respondent No.2 to proceed to decide the objections as has been filed by the petitioner prior to the finalizing the mutation proceedings.

The request as made by the learned counsel for the petitioner appears to be reasonable.

In view of the above, the present writ petition is disposed of without going into the merits of the case or commenting thereon, with a direction to the Assistant Collector 1st Grade-cum-Sub Divisional Magistrate, Fazilka – respondent No.2 to consider and decide the objections of the petitioner, dated 06.08.2019 (Annexure P-5) by passing a speaking order prior to the finalization of the mutation proceedings, if already not so done.

22nd August, 2019
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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