IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA-131-2015 (O&M)

Date of Decision: 31.1.2019

Ranjit Singh

...Appellant.

Versus

State of Punjab and others

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AVNEESH JHINGAN.

PRESENT: Mr. Karanjit Singh, Advocate for the appellant.

Mr. Pankaj Gupta, Additional Advocate General, Punjab.

Mr. Vinay Saini, Advocate for
Mr. G.S. Nagar, Advocate for
respondents No. 5, 9, 10, 29, 30, 32, 36, 38, 40 and 47.

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AJAY KUMAR MITTAL, J.

1. Challenge in this Letters Patent Appeal is to the order dated 28.10.2014 passed by the learned Single Judge whereby CWP-15751-2014 filed by the appellant was disposed of.

2. Briefly stated, the facts necessary for adjudication of the instant appeal as narrated therein may be noticed. Respondent No.7 filed partition application dated 23.9.2002 of the land comprised in khewat No. 122 to 126 situated in village Raipur, Tehsil and District Jalandhr. Separate applications for each khewat were filed and the appellant and his brother respondent No.6 appeared and filed their written statement. On 23.8.2003, respondent No.5 was proceeded against exparte by the Assistant Collector

1st Grade. The Assistant Collector 1st Grade passed the order dated 27.2.2005 whereby he proposed a single mode of partition by clubbing all the applications and vide order dated 28.2.2005 approved the mode of partition. The appellant submitted his objection qua khewat No.122 only. Thereafter, the Assistant Collector 1st Grade called for amended Naksha Irri. Respondent No.7 moved an application for stopping proceedings on the partition applications whereas the appellant and respondent No.6 moved an application dated 10.5.2006 for partition of land comprised in khewat No.122 only. The said application was allowed and the objections were called for against the partition papers but none of the parties raised any objection. The Assistant Collector 1st Grade vide order dated 31.5.2006 sanctioned the partition of the said land and *Sanad Takseem* was issued. Feeling aggrieved, respondent No.5 filed an appeal before respondent No.3 who vide order dated 18.9.2007 allowed the appeal and remanded the matter back to the Assistant Collector 1st Grade for fresh decision after hearing the necessary parties. Against the order dated 18.9.2007, the appellant and respondent No.6 filed an appeal before respondent No.2 under Section 13 of the Punjab Land Revenue Act, 1887 (in short "the Act"). Respondent No.2 vide order dated 16.1.2009 allowed the appeal and set aside the order dated 18.9.2007 passed by respondent No.3. The partition order dated 31.5.2006 was, thus, upheld. Respondent No. 5 filed revision against the order dated 16.1.2009 before respondent No.1 who vide order dated 7.5.2010 dismissed the said revision petition. Thereafter, respondent No.5 filed a review application on 9.6.2010. Respondent No.1 vide order dated 9.4.2013 allowed the review application and while setting aside the order dated 31.5.2006 directed the Assistant Collector 1st Grade to finalize the partition afresh after hearing the necessary parties. The appellant challenged the said order dated 9.4.2013 by filing CWP-15751-2014. The learned Single Judge vide order dated 28.10.2014 upholding the order dated 9.4.2013, disposed of the said writ petition. Hence, the present Letters Patent Appeal.

3. We have heard learned counsel for the parties.

4. The only legal issue that arises for consideration in this appeal is whether the review petition seeking review of the order dated 7.5.2010 was maintainable before the Financial Commissioner?

5. Section 15 of the Act provides for Review by Revenue Officers. It reads thus:-

> "**15. Review by Revenue-officers**: - (1) A Revenue-officer may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order passed by himself or by any of his predecessors in office:
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> Provided as follows: -
>
> (a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order whither passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;
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> (b) an application for review of an order shall

not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as Revenue-officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review or confirming on review a previous order."

6. A plain reading of the abovesaid provision shows that a revenue officer either of his own motion or on the application of any party interested, review and on reviewing, modify, reverse or confirm any order passed by himself or by any of his predecessors in office.

7. Further, Section 6 of the Act describes the Classes of Revenue-Officers in the following term:-

"**6. Classes of Revenue-officers.--** (1) There shall be the following classes of Revenue-officers, namely-

(a) the Financial Commissioner;

(b) the Commissioner;

(c) the Collector;

(d) the Assistant Collector of the first grade; and

(e) the Assistant Collector of the second grade.

(2) The Deputy Commissioner of a district shall be the Collector thereof.

(3) The State Government may appoint any Assistant Commissioner, Extra Assistant Commissioner or Tahsildar to be an Assistant Collector of the first or of the second grade, as it thinks fit, and any Naib-Tahsildar to be an Assistant Collector of the second grade.

(4) Appointment under sub-section (3) shall be by notification and may be of a person specially by name or by virtue of his office, or of more persons than one by any description sufficient for their identification.

(5) Subject to the provisions of this Act, the jurisdiction of the Financial Commissions extends to the whole of the territories administered by the State Government of Haryana and of Commissioners and of Collectors and Assistant Collectors to the divisions and districts, respectively, in which they are for the time being employed."

8. The learned Single Judge on the statement of learned State counsel that the Financial Commissioner-respondent No.1 had accepted the review application and directed the Assistant Collector 1st Grade to finalize

the partition after hearing the parties, disposed of the said writ petition. No error could be found in the view taken by the learned Single Judge as review was maintainable before the Financial Commissioner.

9. In view of the above, finding no merit in the appeal, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

January 31, 2019
gbs

(AVNEESH JHINGAN)
JUDGE

Whether Speaking/Reasoned	**Yes**
Whether Reportable	**Yes**