

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

115

CWP-1325-2023
Date of Decision: 24.01.2023

RANBIR SINGH

... Petitioner

VERSUS

FINANCIAL COMMISSIONER AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Ashish Chopra, Sr. Advocate with
Mr. Gagandeep Singh, Advocate
for the petitioner.

Mr. Amit Jain. Sr. Advocate with
Mr. Varun Parkash, Advocate
for respondent/caveator.

VINOD S. BHARDWAJ, J. (ORAL)

The present writ petition has been filed seeking quashing of order dated 11.01.2023 (Annexure P-1) passed by the learned Financial Commissioner, Haryana, i.e. Respondent No.1 in ROR No.31 of 2022 titled as 'Ranbir Singh and others Versus Commissioner, Gurugram Division, Gurugram and others' vide which the order of status quo granted vide order dated 10.05.2022 (Annexure P-18) has been vacated.

Learned counsel for the petitioner contends that that the petitioner is owner in exclusive possession of land mentioned in the petition for the last many decades and that the partition proceeding was initiated by the private respondents behind the back of the petitioner. Even the service was not effected upon the petitioner. He further contends that the *sanad taqseem* was issued on 02.07.2015 and when the actual physical possession of the petitioner was being interfered with, he came to know about the partition proceedings. Accordingly,

an appeal was filed before the Revenue Authorities, however, the same was dismissed for want of jurisdiction since the *sanad taqseem* had already been issued. The petitioner approached High Court by way of a writ petition i.e. CWP-1356 of 2022, which was disposed of with liberty to the petitioner to file a Revision before the competent Authority vide order dated 27.01.2022. Pursuant thereto, the petitioner filed ROR No.31 of 2022 titled as ‘Ranbir Singh and others Versus Commissioner, Gurugram Division, Gurugram’. An order regarding maintenance of status quo was passed on 10.05.2022. The said order continued to operate for more than six months when an application for seeking vacation of stay was moved on 03.12.2022. Even though the formal notice in the said application had not been issued to the petitioner enabling him to file his response, the status quo order was vacated vide a non-speaking and cryptic order dated 11.01.2023. The said impugned order read thus:

“The case was fixed for service and arguments on vacation of stay today. Status quo vacated. Service has not been completed. Issue notice to the remaining respondents. Now to come up on 29.03.2023 at 3:00 p.m.”

Learned Senior Counsel for the petitioner argues that the order in question is non-speaking and has been passed without affording any opportunity of hearing to the petitioner. He further submits that no reason has been assigned by the respondent No.1- the Financial Commissioner, Haryana for vacation of the order that had already remained in operation for a period of more than six months.

Learned counsel for the respondent-caveator contends that the petitioner is enjoying an interim status quo order on the entire land-holding even though his actual physical possession is only on a portion thereof and as such rights of all other co-sharers cannot be curtailed on account of such cryptic

interim order. He, however, fairly submits that the impugned order is non-speaking and would not satisfy judicial conscience in that regard. It is further averred that the Financial Commissioner, Haryana may be directed to re-decide the application for vacation of stay moved by the petitioner and/or the main ROR No.31 of 2022 in a time bound manner.

Taking into consideration the rival submission made by the respective parties and after noticing the impugned order, the present petition is disposed of with the consent of the parties by setting aside the impugned order, which otherwise does not satisfy the judicial conscience, and remanding the case to the Financial Commissioner, Haryana to decide the application seeking vacation of stay and/or the main ROR No.31 of 2022 in a time bound manner. The parties shall appear before the Financial Commissioner, Haryana on 01.02.2023, whereafter the Financial Commissioner, Haryana shall proceed to adjudicate upon the application seeking vacation of stay (as well as the main ROR No.31 of 2022, if possible). In any case, if the final adjudication of the main ROR No.31 of 2022 is not possible, then the application seeking vacation of stay may be decided in a time bound manner and preferably within a period of four weeks from the date of filing of such application, after giving an effective opportunity of hearing to the respective parties.

24.01.2023
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(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No