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

CWP-4236-2020 (O&M)

Date of decision : 12.12.2023

**Municipal Committee Kharkhoda Through Its Secretary
.....Petitioner**

versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Mehak Sawhney, Advocate
for the petitioner.

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. R.N. Bhardwaj, Advocate
for respondent No.4.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside the order dated 28.08.2018 (Annexure P-8) passed by the Financial Commissioner, Haryana whereby the appeal preferred by the private respondent-Renu has been allowed without issuance of any notice to the petitioner in an arbitrary, illegal and whimsical manner. Further prayer has been made for directing the respondents to implement the order passed by the Commissioner Rohtak Division dated 25.05.2018 (Annexure P-6) as well as the order passed by the Collector Rohtak dated 06.02.2018 (Annexure P-4).

Learned counsel for the petitioner has vehemently contended that the impugned order passed by respondent No.1 is totally illegal and

being in violation of the principles of *audi alteram partem*, deserves to be *set aside*. She has submitted that the petitioner-MC had filed petition for eviction under Sections 4, 5, 7 of the Haryana Public Premises and Land (Eviction and Rent Recovery) 1972 Act against the respondent. She submits that learned Civil Court vide decree dated 27.11.1998 had recorded that respondent-plaintiff had failed to prove ownership over the land in dispute but as she was in possession hence, it restrained the Municipal Committee from dispossessing the respondent-plaintiff from the plot in dispute except in due course of law. She submits that thus, on filing the petition by the petitioner, learned Collector accepted the petition and thus, directed the respondent to be evicted vide order dated 06.02.2018. Aggrieved by the same, respondent filed an appeal before learned Commissioner, Rohtak. Finding no merit in the appeal, learned Divisional Commissioner, dismissed the same vide his order dated 25.05.2018. Petitioner being aggrieved by the same, filed revision petition before respondent No.1 i.e. learned Financial Commissioner who accepted the revision petition filed and thus, *set aside* the well reasoned order passed by learned Collector and learned Divisional Commissioner. She has submitted that from perusal of the impugned order passed by learned Financial Commissioner dated 28.08.2018, it is apparent that learned Financial Commissioner accepted the revision petition without issuing any notice to the petitioner. She submits that learned Financial Commissioner has blatantly violated the principles of natural justice and thus, has fallen in error in setting aside the well reasoned order passed by both the authorities below. She submits that the impugned order being illegal and arbitrary deserves to be *set aside*.

Learned counsel for respondent No.4 however, has submitted that the petition has been filed with an exorbitant delay. He submits that there is no infirmity in the order passed by learned Financial Commissioner and thus, this petition is filed beyond limitation. He further submits that even on merits, petitioner has no case and thus, the petition deserves to be dismissed.

Evidently, the petitioner filed the eviction petition against the respondents under Sections 4, 5 and 7 of the Act. After hearing counsel for both the sides, learned Collector accepted the petition filed and thus, passed the order for eviction of the respondent vide his order dated 06.02.2018. The appeal filed by respondent No.4 was also dismissed by learned Commissioner. However, in the revision filed before learned Financial Commissioner i.e. respondent No.1, the revision petition was heard and decided without issuing notice to the petitioner. There is no denial to the fact that learned Financial Commissioner has not provided any opportunity to the petitioner before deciding the revision petition filed before him. It is apparent that the petitioner has invoked the remedy under Article 226 of the Constitution of India. In the facts and circumstances of the case, this Court do not find any delay in the writ petition filed before this Court as admittedly the impugned order has been passed in the absence of petitioner in violation of the principles of natural justice. This Court does not go into the merits of the present case as the impugned order, in the considered opinion of this Court, is totally illegal having been passed at the back of the petitioner. Thus, without commenting on the merits of the case, the impugned order dated 28.08.2018 (Annexure P-8) passed by the Financial Commissioner is set

aside. The case is remanded back to respondent No.1 for deciding the case afresh after hearing both the sides. This order be conveyed to respondent No.1 and on receiving the order, respondent No.1 would issue notice to both the sides and after hearing them would decide it afresh.

Keeping in view the facts and circumstances of the present case, the Financial Commissioner is directed to decide the case afresh after hearing both the parties expeditiously preferably within three months from the date of receipt of certified copy of this order.

12.12.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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