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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-7562-2023
Date of decision : 17.04.2023

Subhash

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kartar Singh Malik, Advocate for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana
for respondent Nos.1 and 2.

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VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Article 227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the order dated 06.01.2021 (Annexure P-5) passed by respondent No.2.

2. Learned State Counsel has submitted that in the present case, the petitioner was appointed as Lambardar vide order dated 30.10.2019 (Annexure P-3) and against the same, respondent No.3 had filed an appeal before the Commissioner and the Commissioner, vide order dated 06.01.2021 (Annexure P-5) had appointed respondent No.3 as Lambardar. It is further submitted that the petitioner, instead of filing an appeal under

Section 13 against the order of Commissioner, had wrongly filed ROR under Section 16 of the Haryana Land Revenue Act, 1887 (hereinafter to be referred as "the Act of 1887") and had withdrawn the same vide order dated 27.02.2023 (Annexure P-10) in view of the fact that the revisional power under Section 16 of the Act of 1887 has been withdrawn from the Financial Commissioner. Reference has been made to Section 13 of the Act of 1887 which is reproduced hereinbelow:-

> *"**13. Appeals**: -Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely:-*
> *(a) to the Collector when the order is made by an Assistant Collector of either grade;*
> *(b) to the Commissioner when the order is made by a Collector;*
> *(c) to the Financial Commissioner when the order is made by a Commissioner:*
> *Provided that--*
> *(i) when an original order is confirmed on first appeal, a further appeal shall not lie;*
> *(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.*
> *(iii) no authority except the first appellate authority shall remand the case to the lower authority to decide the case afresh; and*
> *(iv) no appeal shall lie against any, interim order passed by a Revenue-Officer under this Act."*

3. It is argued that a reading of the said provision would show that an appeal lies from an original or **appellate order** of a Revenue Officer. It

is further submitted that as per Clause (c), the said appeal would lie before the Financial Commissioner when the order is made by the Commissioner. It is contended that as per the proviso, no further appeal would lie in case an original order is confirmed on first appeal. It is further submitted that in the present case, the order passed by the Collector was not confirmed by the Commissioner in appeal but was set aside and thus, proviso to Section 13 of the Act of 1887 does not apply in the present case. Thus, as per the provisions of Section 13(c) of the Act of 1887, appeal from the order of the Commissioner would lie before the Financial Commissioner.

4. Learned counsel for the petitioner has submitted that in view of the same, he seeks permission of this Court to withdraw the present Civil Writ Petition with liberty to file an appeal under Section 13 of the Act of 1887 before the Financial Commissioner.

5. Accordingly, the present Civil Writ Petition is dismissed as withdrawn with liberty aforesaid.

17.04.2023 **(VIKAS BAHL)**
Pawan **JUDGE**

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**