

124

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

CWP-12160-2023

Date of decision: 31.05.2023

Vijender @ Bijender Singh and others

...Petitioners

Versus

The Financial Commissioner, Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kul Bhushan Sharma, Advocate for the petitioners.

Ms. Upasana Dhawan, AAG, Haryana, for respondent Nos.1 to 4.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for setting aside the impugned order dated 18.04.2022 (Annexure P-1) passed by the Financial Commissioner and challenge has also been made to order dated 03.10.2022 (Annexure P-2) passed by the Financial Commissioner in the review petition.

2. Learned counsel for the petitioners has submitted that an application for partition was filed by the petitioners and thus, any delay in the same would cause harm to them. It is further submitted that the Financial Commissioner has remanded the matter and one of the points which has been taken into consideration for remanding the case is that some portion of the land in question was acquired by the Government and the same has also been included in the partition proceedings. It is contended that the said aspect is factually incorrect as the partition application was filed after leaving out the

said land which was acquired i.e., 2 kanals and 8 marlas and the partition application was filed only for land measuring 24 kanals and 7 marlas. It is further contended that the said observations should not be treated to be binding upon the Assistant Collector, Ist Grade, while considering the matter afresh.

3. A perusal of the order passed by the Financial Commissioner would show that the matter has been remanded and the partition proceedings have been ordered to start afresh from the stage of Naksha 'K'. The petitioners have filed a review application and in the said review application, it has been observed by the Financial Commissioner that all the objections can now be raised before the Assistant Collector, Ist Grade and the Assistant Collector, Ist Grade, would grant opportunity of hearing to all the parties concerned and it would be open to all the parties to raise all the pleas and oppose each other qua all the contentions/documents.

4. Keeping in view the abovesaid facts and circumstances and in view of the limited prayer made by the petitioners, the impugned orders dated 18.04.2022 and 03.10.2022 are upheld with the clarification that it would be open to all the parties concerned to raise all the pleas as are available to them in accordance with law and it would be open to both the parties to show that the land which is the subject matter of the partition application does or does not include the land which had been acquired.

5. With the abovesaid observations, the present Civil Writ Petition stands disposed of.

31.05.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**