

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-29869-2019(O&M)

Date of decision : 24.05.2023

ATS Infrastructure Ltd.

... Petitioner

Versus

The State of Punjab and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHLPresent:- Mr.S.S.Bedi, Advocate
for the petitioner.Mr.Karan Puggal, DAG, Punjab
for respondents no.1 and 2.Mr.Amarpreet Singh Bains, Advocate
for respondent no.3.Mr. Surjit Singh Swaich, Advocate
for respondent no.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 mandamus and certiorari for quashing the order dated 21.08.2019 passed by the Financial Commissioner.

2. On 17.10.2019, a coordinate Bench of this Court was pleased to pass the following order:-

“Inter alia contends that respondents No.5 and 6 sold 20 bighas 2 biswas of land vide a sale deed dated 30.09.2005(Annexure P-1) by holding out that they were the complete owners of the property having absolute title. The suit was filed on 0.09.2014(Annexure P-4) by respondent No.4 for declaration and permanent injunction claiming to be owner of 6 bighas 6 biswas and that the sale deed in favour of the petitioner was illegal, null and void, who is none else but the son and

brother of respondents no. 5 and 6 Similarly the partition proceedings were also initiated on 04.05.2015. Initially on account of pendency of the civil suit also proceedings had been adjourned sine die. The suit has now been decided on 08.02.2019(Annexure P-4) in favour of the said person. However, the appeal is pending as such. It is submitted that before the Appellate Court the respondent is not putting in appearance. It is submitted that thus the suit was filed by the family members 9 years later and also the partition applications have been preferred a decade later.

The land is subject matter of a colonization project of the petitioners. The ex parte partition proceedings were conducted on 11.09.2015 (Annexure P-7) and memorandum of partition was prepared on 03.07.2015 and the final partition was done on 17.07.2015. This aspect has also not been held to be justified by the Financial Commissioner who has remanded the case for fresh decision. Thus the mode of partition already sanctioned has remained intact. It is submitted that the issue of jurisdiction as such of the revenue courts has wrongly been rejected on the ground that the land is situated within the revenue estate of village Madhopur without taking into account that the land of the said village has come within the municipality of Derabassi.

Notice of motion for 17.01.2020.

Counsel shall also place on record the order dated 27.05.2015 whereby the objections were dismissed by the Assistant Collector.

In the meantime further proceedings before the revenue court shall remain stayed till the next date of hearing.

*(G. S. Sandhawalia)
Judge*

17.10.2019”

3. Learned counsel for the petitioner has submitted that the petitioner is aggrieved against the order dated 21.08.2019 to the extent that the Financial Commissioner had decided the issue of jurisdiction by observing that the land is situated within the revenue estate of village Madhopur, without taking into account the fact that the land of said village has come within the municipality of Dera Bassi.

4. Learned counsel for contesting respondent no.4 has submitted that even they are aggrieved against the order of the Financial Commissioner to the extent that the matter has been remanded and

respondent no.4 has also filed a review application which has been adjourned *sine die* awaiting the decision of the present petition.

5. Learned counsel for the petitioner as well as learned counsel for respondent no.4 have jointly submitted that respondents no.5 and 6 are not necessary parties inasmuch as respondents no.5 and 6 have sold their shares to the petitioner. It is further jointly submitted that in view of the same, the order dated 21.08.2019 passed by the Financial Commissioner be set aside and the matter be remanded to the Financial Commissioner to redetermine the revision on merits after hearing pleas of both the sides.

6. Keeping in view the above said facts and circumstances, the present petition is partly allowed and the order dated 21.08.2019 passed by the Financial Commissioner is set aside and the matter is remanded to the Financial Commissioner to decide the revision afresh after taking into consideration the pleas raised by all the parties. The parties would appear before the Financial Commissioner on 31.05.2023 at 11:00 AM. The Financial Commissioner would decide the revision petition afresh as expeditiously as possible.

7. It is made clear that this Court has not opined on the merits of the case and the Financial Commissioner would consider the case on its own merit independently, in accordance with law, preferably within a period of six months from 31.05.2023.

8. Pending miscellaneous application, if any, shall stand disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

May 24, 2023

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No