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

CWP-1862-2024

Date of Decision: March 05, 2024

Mahant Karan Nath

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Vikram Singh, Advocate
for the petitioner.

.....

RAJESH BHARDWAJ, J.(ORAL)

Prayer in the present petition is for setting aside the order dated 21.12.2023, Annexure P-8, passed by respondent No.1, order dated 17.10.2012, Annexure P-6, passed by respondent No.2 and order dated 23.12.2010, Annexure P-5, passed by respondent No.3 being wrong, illegal and against the provisions of law.

It has been submitted by counsel for the petitioner that petitioner filed an application for correction of Khasra Girdawari of the land measuring 27 kanal 11 marla situated in village Madado on the ground that petitioner is in possession of the land in question as Mohtamim/Pujari of the Dera. He has submitted that revenue entries were wrongly continuing in the name of Mahant Girdari Nath, who had expired, and the petitioner is in possession as Chela of Mahant Girdari Nath. It is further submitted that on issuance of notice, the respondent appeared and contested the application.

Learned Assistant Collector accepted the application vide order dated

petitioner since Kharif 2002 as Pujari of the Dera. He has submitted that aggrieved by the said order, the respondent filed an appeal before the Collector, which was illegally accepted by him vide his order dated 19.10.2004. Aggrieved petitioner filed the second appeal before the Commissioner, Ambala Division, Ambala, however, the same was rejected by learned Commissioner vide order dated 17.01.2007. The petitioner thereafter filed ROR-339-2006-2007 before learned Financial Commissioner, who accepted the same vide order dated 19.04.2010 and the order of the learned Commissioner was set aside. It is submitted that the case was remanded by the learned Financial Commissioner to the learned Collector with a direction to pass a decision afresh on merits. He has submitted that on remand, the learned Collector ignored the fact that Khasra Girdawari was to be prepared as per the possession and thus he illegally accepted the appeal of the respondent vide his order dated 23.12.2010. Petitioner challenged the order dated 23.12.2010 before the learned Commissioner, who dismissed the same vide impugned order dated 17.10.2012. Aggrieved the petitioner filed the revision petition before the learned Financial Commissioner against the order dated 23.12.2010, however, learned Financial Commissioner, without appreciating the evidence on record, dismissed the same by passing the non-speaking order dated 21.12.2023. It has been submitted by learned counsel for the petitioner that respondent No.1 while deciding the revision petition has gone beyond the pleadings as well as the evidence on record and, thus, has dismissed the same by observing that the dispute lies within the domain of the Civil Court and not the Revenue Court whereas, the issue involved

regarding Khasra Girdawari totally lies within the domain of the Revenue authorities. He has submitted that in the matter of correction of Khasra Girdawari, the issue of ownership and the status of the occupant is not relevant and it is only the factum of the possession, which is to be taken into consideration, which the learned Financial Commissioner has failed to appreciate. He has submitted that respondent has never challenged the spot inspection report prepared by the learned Assistant Collector nor he has ever filed any objections against the spot inspection report but the learned Financial Commissioner has failed to appreciate the same. He submits that the impugned orders passed are totally against the evidence on record and the law settled and thus deserve to be set aside.

Heard.

After hearing counsel for the petitioner and perusing the record, it is apparent that on initiation of the proceedings when the matter came up before the Financial Commissioner, the order was set aside and the case was remanded to the Collector with a direction that the application for correcting the Khasra Girdawari should be decided on merits. In compliance of the remand order, the Collector afforded an opportunity to the parties and spot inspection of the disputed land was done in the presence of the Naib Tehsildar and respectable persons of the village. It was found on the spot inspection that the disputed land was being cultivated by the villagers through the Manager of the Dera and Charan Nath was appointed as the Manager of the Dera. Petitioner -Karan Nath failed to bring any evidence in his favour. Thus, finding no infirmity in the order passed by the Collector, the Commissioner dismissed the appeal vide its order dated 17.10.2012.

This order was further challenged by way of filing revision petition before the learned Financial Commissioner. During pendency of the revision petition before the learned Financial Commissioner, respondent Charan Nath died on 17.11.2014 and application was filed by the respondent to substitute Charan Nath with Naresh Nath as per Will dated 20.09.2014. The application was allowed. Thus the dispute, as observed by the learned Financial Commissioner, was regarding the Mohtamim/Manager of the Samadh Baba Badnath Kanpada, Ismailbada. However, appointment of Mohtamim, being the matter of evidence, could be adjudicated by the Civil Court, as has been observed by the learned Financial Commissioner. Thus, it is apparent from the spot inspection report that petitioner had failed to produce any evidence regarding possession on the spot. On the other hand the dispute was not found of correction in Khasra Girdawari, but regarding the appointment of Mohatamim. Hence, learned Financial Commissioner has rejected the same by granting opportunity to the parties to approach the civil Court for its adjudication. It had been observed by the learned Financial Commissioner that entry of the cultivator of the suit land in the Khasra Girdawari and the jamabandi will be recorded as ‘Khudkasht’ only.

Thus, in the facts and circumstances, this Court does not find any infirmity in the impugned orders. The present petition, being devoid of any merit, is hereby dismissed.

March 05, 2024

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- 1. Whether speaking/reasoned ?
- 2. Whether reportable ?

(RAJESH BHARDWAJ)

JUDGE

- Yes/No
- Yes/No