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

CWP-2561-2024
Date of decision : 09.02.2024

Nafe Singh and others .....Petitioners

versus

Financial Commissioner Revenue Haryana & others ... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ
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Present :- Mr. Sanjiv Gupta, Advocate
for the petitioners.

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RAJESH BHARDWAJ, J. (Oral)

Prayer in the present petition is for quashing the impugned orders passed by the Assistant Collector 2nd Grade, Karnal dated 28.01.2019 (Annexure P-2); sanad taksim dated 28.02.2019 (Annexure P-3), order dated 18.07.2019 (Annexure P-5) passed by learned Collector, Karnal; order dated 30.03.2022 (Annexure P-7) passed by respondent No.2 and the order dated 11.01.2024 (Annexure P-10) passed by respondent No.1 vide which the revision petition was dismissed. Further prayer has been made for staying the operation of the impugned orders or in the alternative the dispossession and further alienation of the suit property may kindly be stayed.

Inter alia, it has been submitted by counsel for the petitioners that the petitioners being aggrieved filed the revision petition before the Commissioner. However, as counsel for the petitioners could not make himself available on the date of hearing, the case was dismissed for non-prosecution. He has fairly submitted that instead of filing the application for restoration of the case, the petitioners approached the learned Financial Commissioner by way of filing the revision petition. However, learned Financial Commissioner has dismissed the same by passing a cryptic order dated 11.01.2024 without assigning any reason.

Notice of motion.

Mr. D.P. Chahal, Advocate has accepted notice on behalf of the caveators/respondents No.5 and 6 and submitted that the revision petition filed by the petitioners was not even maintainable as the *sanad taksim* had already been issued and thus, the only remedy available with the petitioners after issuance of *sanad taksim* was to file revision before the learned Financial Commissioner and not before the Commissioner. However, he does not dispute that the impugned order passed by the Financial Commissioner is cryptic and did not deal with the merits of the case.

Heard. On hearing counsel for the parties and perusing the record, it is apparent that the partition proceedings in the present case was initiated on 03.10.2012 and thus, the unamended Section 16 of the Punjab Land Revenue Act (as applicable to Haryana) would be applicable. Though the petitioners had filed the revision petition before the Commissioner however, it cannot be denied that they had the remedy of filing the revision petition before the learned Financial Commissioner but they chose to file revision before the Commissioner which was dismissed for non-prosecution and the next revision was filed before the Financial Commissioner and learned Financial Commissioner without adverting to the merits of the case, has dismissed the same without assigning any reason. This Court finds that the impugned order dated 11.01.2024 passed by Financial Commissioner is totally unsustainable in the eyes of law and the same is hereby set aside. The case is remanded to the learned Financial Commissioner to hear the parties again and on hearing both the sides pass a speaking order on merits in accordance with law within two months.

Status quo be maintained till the decision of the case.

(RAJESH BHARDWAJ)
JUDGE

09.02.2024
m. sharma

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