



**CWP-5866-1999 (O&M) *along with*
CWP-8214-1999 (O&M)**

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201 (2 cases)

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

**CWP-5866-1999 (O&M)
CWP-8214-1999 (O&M)
Date of Decision: 11.11.2024**

(I)

CWP-5866-1999 (O&M)

Parkash @ Om Parkash and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

(II)

CWP-8214-1999 (O&M)

Duli Chand

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ishwar Lal, Advocate
for the petitioners
(in CWP-5866-1999).

None for the petitioner(s)
(in CWP-8214-1999).

Mr. Rajneesh Chadwal, AAG, Haryana.

Mr. V.P. Sangwan, Advocate
for respondent No.10 (in CWP-5866-1999)
for respondent No.12 (in CWP-8214-1999).



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HARSH BUNGER, J. (Oral)

1. This order shall dispose of two writ petitions, bearing CWP-5866-1999 and CWP-8214-1999 and for the purpose of passing this order, the facts are being taken from **CWP-5866-1999**.

2. The present petition (CWP-5866-1999) has been filed under Articles 226/227 of the Constitution of India *inter alia* seeking a writ in the nature of Certiorari for setting aside the order dated 19.01.1995 (Annexure P-6), passed by the learned Commissioner, Hissar Division, Hissar and order dated 31.03.1999 (Annexure P-9), passed by the learned Financial Commissioner, Haryana.

3. Learned counsel for the petitioner(s) (in CWP-5866-1999) has referred to para 3 of order dated 19.01.1995 (Annexure P-6), passed by the learned Commissioner, Hissar Division, Hissar, which reads as under:

“Both the learned counsels for the appellant and the respondents Nos.1 and 2, who had come to this court for contesting the impugned partition orders of the learned Collector dated 8.9.93 have seen the Map (Ex. ‘A-I’) and agree with its contents. As regards respondents Nos. 8 and 9 and their counsel Shri Ranbir Singh, they are not present at this juncture though respondents No.8 and 9 were present in the morning. This Court presumes that they have consented to the Map prepared by the Revenue Officers by virtue of their absence.”

3.1 Learned counsel for the petitioner(s) (in CWP-5866-1999) contends that the matter was decided by the learned Commissioner by drawing presumption that they have consented to Map (Ex. A-I) only on the ground that they were present in the morning whereas when the matter was taken up, they were absent from the Court.

4. At this stage, learned counsel appearing for respondent No.10



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(in CWP-5866-1999) as well as learned State counsel fairly admit that such presumption could not have been drawn by the learned Commissioner and therefore, they are not in a position to defend the order dated 19.01.1995 (Annexure P-6). Learned counsel further submit that they have no objection if the orders dated 19.01.1995 and 31.03.1999 (Annexures P-6 and P-9 respectively) are set aside.

5. Keeping in view the above, orders dated 19.01.1995 and 31.03.1999 (Annexures P-6 and P-9 respectively) are set aside and the matter is remanded to the learned Commissioner, Hisar Division, Hisar for deciding the Executive Appeal No. 12 of 1993-94 titled as “*Giani Ram vs. Sheo Ram and others*” afresh after affording due opportunity of hearing to all the concerned parties with a direction to the parties to appear before the learned Commissioner on 06.12.2024.

6. It is further directed that the learned Commissioner shall decide the aforesaid Executive Appeal No. 12 of 1993-94 within a period of three months form the date of appearance of the parties before him i.e. on 06.12.2024.

7. The present Writ Petitions are disposed of accordingly.

8. All pending applications (if any) shall also stand closed.

9. Photocopy of this order be placed on the file of connected case.

11.11.2024

Himani

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No