

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

CWP-7808-2024

Date of decision 05.04.2024

Kulwant Singh Through His Legal Representatives and Ors.

.....Petitioners

versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Ms. Amandeep Soni, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

1 Prayer in the present petition is for quashing the impugned order dated 29.11.2023 (Annexure P-8) passed by learned Financial Commissioner, Punjab whereby the revision petition filed by the petitioners was dismissed against the order dated 04.10.2018 (Annexure P-7) passed by learned Sub Divisional Magistrate-cum-Collector, Jalandhar, District Jalandhar whereby the appeal filed by the petitioners has been dismissed against the order dated 27/30.06.2017 (Annexure P-5) passed by the Court of learned Naib Tehsildar-cum-Assistant Collector Ist Grade, Adampur, District Jalandhar vide which final partition has been wrongly and illegally done.

2. Learned counsel for the petitioners has submitted that respondents No.5 and 6 filed an application for partition of land measuring 121 Kanals 19 Marlas. She has submitted that the petitioners appeared before the Assistant Collector Ist Grade, Adampur who transferred the application to the DRO, who dismissed the same for non prosecution as respondents No.5 and 6 had failed to appear before him. Thereafter, on the

application filed by respondents No.5 and 6, case was restored and mode of partition was sanctioned *ex parte* by the DRO and *Naksha Arra* and *Irri* were called and after receiving the same, learned DRO transferred the partition application to the Court of Naib Tehsildar-cum-Assistant Collector Ist Grade, Adampur. She submits that on coming to know about the pendency of the partition proceedings before the Assistant Collector Ist Grade, the petitioners immediately filed objections. It is submitted that learned Assistant Collector Ist Grade, Adampur dismissed the objections filed by the present petitioners and passed the final order. She further submits that aggrieved by the same, the petitioners filed an appeal before the learned Collector, however, without going into the merits of the case, learned Collector, has illegally dismissed the same on the ground that *Sanand Takseem* has already been issued, hence, the petitioners approached the Financial Commissioner by way of filing the revision petition, which was numbered as Revision Petition No.884 of 2018. She submits that during the pendency of the revision petition before the Financial Commissioner, petitioner No.1 Kulwant Singh (in revision petition) expired on 04.11.2023 and hence, counsel for the petitioners therein could not comply with the order passed by the Court of Financial Commissioner for providing registered envelopes/aerograms with correct address of respondents No.3, 4, 6 to 9. She submits that on account of the same, learned Financial Commissioner has dismissed the revision petition filed by the petitioners for non-compliance of the order vide impugned order dated 29.11.2023. It is submitted that one of the petitioners, Kulwant Singh died on 04.11.2023, thus, it is evident that there was no intentional lapse on the part of the petitioners for non-compliance of the order passed by the Financial

Commissioner. She submits that LR's of deceased Kulwant Singh have already been impleaded and the order passed by the Financial Commissioner would be duly complied with. It has been submitted that the petitioners would suffer irreparable loss and injuries, if the revision petition filed by the petitioners is not decided on merits.

3. Notice of motion.

4. Mr. Navneet Singh, Sr. DAG, Punjab, accepts notice on behalf of the respondent-State.

5. Heard.

6. After hearing learned counsel for the parties, it is apparent that the petitioners filed revision petition before the Financial Commissioner, which was pending adjudication before him. There is no denial to the fact that during the pendency of the same, petitioner -Kulwant Singh died and as submitted before this Court, on account of the same, the order passed by the Financial Commissioner for providing registered envelopes/aerograms with correct address of respondents No.3, 4, 6 to 9, could not be complied with. It is submitted by learned counsel for the petitioners before this Court that on account of bonafide reason, the order could not be complied with and the same would be duly complied with now. It is also submitted that warrants of possession have also been issued by the respondent-State for dispossessing the petitioners.

7. In the overall facts and circumstances of the case, the Court finds the impugned order dated 29.11.2023 to be unsustainable and thus, the same is set aside and the case is remanded to the Financial Commissioner for deciding the case on merits. The petitioners would comply with the order passed by the Revisional Court by providing registered envelopes

/aerograms with correct addresses of respondents No.3, 4, 6 to 9. On compliance of the same, learned Financial Commissioner would proceed further and decide the revision petition expeditiously preferably within three months from the date of receipt of copy of this order.

8. Petition stands disposed of.
9. As submitted by counsel for the petitioners that warrants of possession have been issued, thus, status quo regarding the possession would be maintained till the decision of the revision petition by the Financial Commissioner.

05.04.2024

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Whether Speaking/Reasoned

Whether Reportable

(RAJESH BHARDWAJ)

JUDGE

: Yes/No

: Yes/No