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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9944-2024
Date of decision : 01.05.2024

Gurlal Singh and anotherPetitioners

versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. H.C. Arora, Advocate
for the petitioners.

RAJESH BHARDWAJ, J.

1. Prayer in the present petition is for quashing the order dated 28.02.2024 (Annexure P-7) passed by respondent No.2 (Financial Commissioner, Revenue, Government of Punjab), setting aside the orders dated 18.03.2020 (Annexure P-1) passed by respondent No.4 (Assistant Collector First Grade, Jaitu) and further order dated 27.01.2021 (Annexure P-2) passed by respondent No.3 (Additional Deputy Commissioner-cum-Collector, Faridkot) vide which the said respondents had approved the mutation/intkal of the land exchanged between the petitioners and respondent No.9 on the basis of a writ exchange deed dated 02.12.2019 (Annexure P-8), inter alia, on the grounds that (i) the aforesaid mutation/intkal was sanctioned by respondents No.3 and 4, on the basis of exchange deed dated 02.12.2019 (Annexure P-8) in a legal manner; and (ii) respondents No.5 to 8 were objecting to the sanction of intkal of the aforesaid land on the basis of exchange deed (Annexure P-8) (supra) on the ground that they had entered into some agreements of sale

of the same land (which was subject matter of the exchange deed), and that they had the prior to purchase the said land, which is not permissible under law, as an agreement to sell or a written sale deed (without registration) does not confer any title to the prospective transferee of such land; and (iii) the interim orders dated 29.02.2020 (Annexure P-4) and 05.03.2020 (Annexure P-5) and 19.08.2021 (Annexure P-6) passed by the concerned Civil Court, on applications filed for seeking interim injunction only restrained the petitioners from effecting any further alienation of the land in question and did not restrain the sanctioning of mutation/intkal of the land exchanged between the petitioners and respondent No.9; and (iv) for the aforesaid reasons, the order dated 28.02.2024 (Annexure P-7) passed by respondent No.2-Financial Commissioner, Revenue, Punjab is patently illegal and arbitrary and is liable to be set aside and quashed in the interest of justice, and the orders dated 18.03.2020 (Annexure P-1) and 27.01.2021 (Annexure P-2) are liable to be restored and maintained. Further prayer has been made for restraining the operation of the order dated 28.02.2024 (Annexure P-7) passed by respondent No.2-Financial Commissioner, Revenue, Punjab in a Revision Petition No.ROR-158-2021 titled as Jaswinder Kaur and others Vs. Davinder Singh and others during the pendency of the instant Civil Writ Petition.

2. It has been submitted by counsel for the petitioners that respondent No.9 exchanged the land situated in Village Ukandwala with the present petitioners on 02.12.2019. He submits that in the civil suit filed by respondents No.5 to 8 for the specific performance, the Civil Court issued the interim injunction restraining the petitioners from transferring the suit land vide its order dated 29.02.2020. It is submitted that respondent No.4-Assistant Collector Ist Grade, Jaito vide his order

dated 18.03.2020 sanctioned the mutation of the aforesaid land by rejecting the objections raised by respondents No.5 to 8. Thereafter, the Collector, Faridkot dismissed the objection raised by respondents No.5 to 8 vide order dated 27.01.2021. Being aggrieved, respondents No.5 to 8 filed the revision petition before the learned Financial Commissioner who vide impugned order dated 28.02.2024 has *set aside* the orders of the authorities sanctioning the mutation by clarifying that the parties may approach the revenue authorities for updation of the revenue record in terms of the judgment of the Civil Court. He submits that the learned Financial Commissioner by passing a cryptic order has *set aside* the well reasoned order passed by the authorities and thus, the same being unsustainable in the eyes of law, deserves to be *set aside*.

3. Heard. On hearing counsel for the parties and perusing the record, it is deciphered that the mutation under dispute was entered and sanctioned on the basis of the unregistered exchanged deed executed by respondent No.9 with the petitioners. Respondents No.5 to 8 had already filed suit for specific performance against the petitioners and in the said suit the exchanged deed had also been challenged. The *ad interim* injunction was also granted by the Civil Court in favour of respondents No.5 to 8. However, as observed by the learned Financial Commissioner, the Assistant Collector Ist Grade in his order dated 18.03.2020 while sanctioning the mutation had observed that the stay application filed by respondent No.5 was rejected by the Civil Court which was found to be factually incorrect. Hence, the observation made by the Financial Commissioner in the impugned order in setting aside the order impugned before him does not suffer from any infirmity as he has duly observed that the parties can approach the revenue authorities after the decision of the

Civil Court. Hence, finding no merit in the present petition the same is hereby dismissed. However, the parties would be at liberty to approach the revenue authorities after the decision of the civil suit as already observed by the learned Financial Commissioner in the impugned order dated 28.02.2024.

01.05.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No