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

CWP-2676-2018

Date of Decision: 23.05.2024

Jaswinder Singh and another

..... Petitioners

Versus

Financial Commissioner (Appeals) and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. Paramjit Rajpur, Advocate, for the petitioners.
Mr. Rajeev K. Takkar, Deputy Advocate General, Punjab.
Mr. Dheeraj Mahajan, Advocate,
for respondent No.5.

Rajesh Bhardwaj, J.

1. Prayer in the present petition is for quashing the orders dated 26.04.2017 (Annexure P-5), 29.07.2013 (Annexure P-4), 01.08.2011 (Annexure P-2) passed by respondents No.1 to 3, respectively, whereby the order dated 17.12.2009 passed by respondent No.4 (Annexure P-1) has been set aside illegally and arbitrarily against the statutory provisions.

2. It has been submitted by learned counsel for the petitioners that the petitioners are in cultivating possession of the land measuring 08 Kanals 0 Marla comprised in Rect. No.28 Killa No.7 situated in village Shahoor, District Gurdaspur. He submits that the petitioners filed an application for correction of *Khasra Girdawaries* before learned Assistant Collector IInd Grade, Gurdaspur i.e. respondent No.4. He submits that after conducting inspection in the presence of the respectables of the village, the application filed by the petitioners for correction of *Khasra Girdawaries* was allowed



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by respondent No.4 vide his order dated 17.12.2009. He submits that aggrieved by the same, respondent-State filed an appeal before the Collector i.e. respondent No.3 without impleading the present petitioners as party. It is submitted that respondent No.3 without appreciating the evidence on record had illegally set aside the order passed by respondent No.4 vide impugned order dated 01.08.2011. He submits that aggrieved by the same, the petitioners preferred an appeal before respondent No.2 i.e. the Commissioner, Jalandhar Division, Jalandhar. He submits that the petitioners agitated various grounds in the appeal regarding perversity of the order, however, without dealing with the same, respondent No.2 also dismissed the appeal filed by the petitioners vide impugned order dated 29.07.2013. He submits that still aggrieved by the same, the petitioners filed ROR No.717-2013 before respondent No.1 i.e. the Financial Commissioner, however, respondent No.1 as well has fallen in error in dismissing the same by passing an arbitrary order dated 26.04.2017. He further submits that the impugned orders passed by respondents No.1 to 3 are totally based on conjectures and surmises and thus, being unsustainable in the eyes of law, deserve to be set aside by allowing the present petition.

3. Per contra, learned counsel for respondent No.5 has vehemently opposed the submissions made by counsel for the petitioners. He has submitted that respondent No.4 had accepted the application filed by the petitioner totally violating the statutory provisions. He has submitted that neither any spot inspection was conducted nor any person was joined by respondent No.4, however, he passed the order dated 17.12.2009 only in



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order to favour the petitioners without there being any relevant record. He submits that this order passed by respondent No.4 was assailed by the respondent-State before respondent No.3, wherein, it was found and observed that respondent No.4 had allowed the application by correcting the *Khasra Girdawaries* in favour of the petitioners as per his own convenience and ignoring the letter No.7343 dated 15.09.2008. He has submitted that as per the law settled, once *Girdawaries* are incorporated in the *Jamabandi* then the Tehsildar as Assistant Collector IInd Grade, has no authority to correct the same, but respondent No.4 decided the same at his own level. He has submitted that the appeal filed by the petitioners before learned Commissioner i.e. respondent No.2 was dismissed finding no perversity in the order passed by the Collector. He submits that as per Sections 45 and 34 to 37 of the Punjab Land Revenue Act, once entries of *Khasra Girdawaries* are incorporated in the *Jamabandi*, then it is only the Civil Court which has the jurisdiction to decide the correctness of the same, but respondent No.4 without following the procedure as established by the Punjab Land Revenue Act has passed the order which has no value in the eyes of law. He has submitted that thereafter, the petitioners assailed the order of the Commissioner before the Financial Commissioner by way of filing a revision petition, wherein, respondent No.1 has given detailed reasoning rejecting the revision filed by the petitioners and has observed that in the *Jamabandi* for the year 2005-06, the owner of the land was provincial Government and in Column No.5 Smt. Viro was mentioned as *Gair Dakhilkar* and thus, finding the petitioners having miserably failed to show



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any evidence as to how they came into possession of the land, the revision was dismissed. He has submitted that learned Collector, Commissioner and Financial Commissioner had given concurrent finding against the petitioners holding the order passed by respondent No.4 to be totally unsustainable in the eyes of law as there was no evidence on record. He submits that thus, the present petition being devoid of any merit deserves to be dismissed with costs.

4. Heard learned counsel for the parties and perused the record. It is apparent that the petitioners filed an application for correction of *Khasra Girdawaries*, which was allowed by respondent No.4 vide order dated 17.12.2009. However, aggrieved by the same, respondent-State filed appeal before the Collector, who heard both the sides and re-appreciated the record and it was found that the observation made by respondent No.4 regarding the spot inspection conducted in the presence of respectables, was without any record to support the same. There are specific findings by the Appellate Court that respondent No.4 has corrected the entries in his office only on the basis of the report of the Patwari. There was no evidence produced by the petitioners to show as to how they came into possession of the disputed land. As per record, the provincial Government was found to be the owner of the land. Even otherwise once entries of *Khasra Girdawaries* are incorporated in the *Jamabandi*, then jurisdiction lies with the Civil Court, whereas, respondent No.4 ignoring the same had passed the order dated 17.12.2009 for correcting the *Khasra Girdawaries*.

5. Thus, it is evident that all the authorities have found the order passed by respondent No.4 to be unsustainable which is neither based on

any evidence nor as per law settled. Thus, the petitioners have miserably failed to substantiate their arguments raised. Resultantly, this Court finds no merit in the present petition and thus, the same is hereby dismissed.

23.05.2024

sharmila

(RAJESH BHARDWAJ)

JUDGE

Whether Speaking/Reasoned

:

Yes/No

Whether Reportable

:

Yes/No