(1982) 02 P&H CK 0028

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ No. 1414 of 1973

Hari Singh APPELLANT

Vs

Financial Commissioner, Revenue, Haryana and others RESPONDENT

Date of Decision : 09-02-1982

Acts Referred:

Citation : (1982) CurLJ 230 : (1982) ILR (P&H) 138 : (1982) PLJ 320 : (1986) RRR 446

Hon'ble Judges : D.S.Tewatia, J

Advocate : J.C. Verma, Advocates., Mrs. Surjit Bindra, Advocates for appearing Parties

Judgement

D.S. Tewatia, J. (Oral).

1. In this petition, order dated the 1st August, 1972 (Annexure `E'') of the Financial Commissioner, Revenue, Haryana, and the recommendation dated the 4th November, 1971 (Annexure `D'') of the Commissioner, Ambala Division, made to him whereby the Financial Commissioner set aside the order of the Assistant Collector and the appellate order of the Collector and allowed the application of respondents 2 to 9 for correction of Khasra Girdawari for the 1970 Rabi crop, have been impugned.

2. The short history preceding the filing of the application for correction of Khasra Girdawari by Banarsi Dass, Mool Chand and others, respondents 2 to 9, on 30th April, 1970, deserves to be recapitulated. One Bhawani Shankar, the original owner of the land in dispute through a civil suit, sought a decree for possession against Hari Singh, petitioner herein. The trial Court partly decreed the suit. On an appeal by Bhawani Shankar, the first appellate Court decreed the suit in toto. The Regular Second Appeal filed by Hari Singh was dismissed and the Letters Patent Appeal against that judgment also met the same fate. On 31st October, 1969, Bhawani Shankar obtained warrants of possession and on 1st November, 1969 secured possession of the land. On 3rd November, 1969 Bhawani Shankar sold the land in dispute to Banarsi Dass and Mool Chand (Mool

Chand has since died and his legal representatives are on the record as respondents 3 to 9). On 30th April, 1970, the said Banarsi Dass and Mool Chand moved the application for correction of Khasra Girdawari for the crop of Rabi 1970. The Assistant Collector dismissed the application, vide order dated the 4th June, 1970. An appeal against that order was also dismissed by the Collector, vide order dated the 6th January, 1971.

3. The Financial Commissioner disagreed with the Assistant Collector and the Collector that the entry in the Roznamcha register regarding the change of possession was a mere paper transaction.

4. The learned counsel for the petitionr has urged that the Financial Commissioner, while exercising power of revision, could not go into the findings of facts and set aside the concurrent findings of facts of the Assistant Collector and the Collector. According to the learned counsel, the Financial Commissioner could only examine the legality of the orders passed by the Assistant Collector and the Collector. In support of his submission, he Gurdawara Patti Aminpur and others v. Gurcharan Singh and others, 1958 P.L.J. 5 and Ram singh etc. v. Gram Panchayat at Budhi Pind, 1968 P.L.J. 8.

5. Section 16 of the Punjab Land Revenue Act, 1887 (Act XVII of 1887), conferring power of revision on the Financial Commissioner, is in the following terms :

"16. (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue Officer subordinate to him. ... ...

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(4) The Financial Commissioner may in any case called for by himself under subsection (1) or reported to him under subsection (3) pass such order as he thinks fit :

Provided that he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate Revenue Officer and affecting any question of right between private persons without giving those persons an opportunity of being heard."

A bare perusal of the provisions of the above quoted section 16 of the Punjab Land Revenue Act would show that it confers plenary power on the Financial Commissioner and does not envisage any such restrictions as are referred to by the Financial Commissioner in their decisions relied upon by the counsel for the petitioner in the cases of Gurdawara Patti Aminpur and others and Ram Singh(supra).

6. In my opinion, the Financial Commissioner, while exercising power under section 16 of the Punjab Land Revenue Act, could go into the question of facts as well and form his own opinion on facts. Such being the position in law, no fault can be found with the impugned orders, Annexures `D'' and `E'' to the petition.

7. For the reasons aforementioned, there is no merit in this petition and the same is dismissed, but with no order as to costs. Petition dismissed.