(1999) 12 P&H CK 0066

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 18500 of 1998

Jagir Singh — APPELLANT

Vs

Financial Commissioner (Appeals), Punjab — RESPONDENT

Date of Decision : 20-12-1999

Acts Referred:

Citation : (2000) 2 LJR 407 : (2000) 2 PLJ 6 : (2000) 2 RCR(Civil) 534

Hon'ble Judges : H.S.Bedi, J and A.S.Garg, J

Advocate : Mr. D.P.S. Mann, D.A.G., Punjab., Mr. S.S. Chandi, Advocate., Advocates for appearing Parties

Judgement

H.S. Bedi, J.—We have heard the learned counsel for the parties. The learned Financial Commissioner has held in the order Annexure P10 that a revision petition was not maintainable before him after the amendment made in Section 16(3) of the Punjab Land Revenue Act, 1887. We have considered the arguments advanced by the learned counsel. The amendment is reproduced hereunder :

"(2) In the Punjab Land Revenue Act, 187 in Section 16 subsections (3) and (4), the following subsections shall be substituted namely :

(3) If in any case in which a Collector has called for a record and he is of the 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 Commissioner whose decision shall be final.

(4) The Financial Commissioner or Commissioner may in any case called for by himself under Subsection (1) or under SubSection (2), as the case may be, pass such orders as he thinks fit :

Provided that he shall not under this section pass an order reversing or modifying any proceedings 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 :

Provided further that the cases reported to the Financial Commissioner under subsection (3) as it existed prior to the commencement of the Punjab Land Revenue (Amendment) Act, 1998, shall be decided by him as heretofore."

As per subsection (3) of Section 16 of the Act it is evident that if the Collector refers the matter to the Commissioner, it is only then that the order of the Commissioner would be final. The jurisdiction of the Financial Commissioner is, however, given by subsection (4) of Section 16 of the Act. It is the conceded position, even otherwise, that the orders impugned before the Financial Commissioner were not referred to the Financial Commissioner by the Collector but were passed under the hierarchy created under the Act. The order Annexure P10 cannot, therefore, be sustained. The writ petition is allowed, the order Annexure P10 is quashed and the case is remitted to the learned Financial Commissioner for fresh decision. The parties are directed to appear before the said office on 7.3.2000. The parties shall meanwhile maintain status quo with regard to possession. Dasti order.

