(1994) 04 P&H CK 0057

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 2976 of 1992

Mangat Ram and Another APPELLANT

Vs

Financial Commissioner (Revenue) and Others RESPONDENT

Date of Decision : 22-04-1994

Acts Referred:

Punjab Land Revenue Act, 1887 — Section 13, 34, 35, 36, 37

Citation : (1994) 108 PLR 518

Hon'ble Judges : R.S. Mongia, J

Bench : Single Bench

Advocate : V.K. Jain and J.L. Malhotra, for the Appellant; B.S. Bedi, for the Respondent Nos. 2 to 5, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Mongia, J.—Briefly the facts of the case are that on an appeal against the correction of Khasra Girdawari ordered by the Collector in favour of the petitioners, the Commissioner, Rohtak, after hearing both the sides, held that an appeal against the correction of Khasra Girdawari did not lie before the Commissioner and directed that the appellant should present the same before the proper Court. It was, inter aha, held by the Commissioner that the powers of the Collector in such cases are not exercisable by the District Revenue Officer and in the present case, the District Collector had just approved the proposal of the Circle Revenue Officer in his administrative capacity and not as a Collector under the Revenue Act. It may be observed here that earlier the Collector had given directions on the file, on the basis of which, the District Revenue Officer had made the corrections in the Khasra Girdawari, which were duly approved by the Collector

2. Against the order of the Commissioner, dated 7th June, 1991, returning the appeal to the present respondents to be filed before the proper Court, the respondents took the matter before the Financial Commissioner, Haryana, who vide order, dated 2nd August, 1991 (Annexure P-7), held that the order of the

Collector approving the change in the Khasra Girdawari could not in the circumstances, be held just to be an administrative order. Since the approval of the Collector regarding the change in the Khasra Girdawari affected the rights of the parties, it was to be treated as a judicial order and not purely an administrative order. According to the Financial Commissioner, the appeal was competent before the Commissioner. The Financial Commissioner remanded the case to the Commissioner to dispose of the appeal of the present respondents on merits after giving opportunity to both the sides. Aggrieved by the said order, the petitioners filed the present writ petition.

3. The only plea taken in the writ petition is that the Khasra Girdawari could only be corrected by the Assistant Collector, IInd Grade, and against the correction of Khasra Girdawari, the appeal did not lie to the Commissioner, and, therefore, the Financial Commissioner was not correct in law to hold that the order of correction of Khasra Girdawari which was approved by the Collector, is deemed to be the order of the Collector on the judicial side, and, therefore, an appeal lay to the Commissioner.

4. After going through the averments made in the writ petition and hearing the learned counsel for the parties, I am of the view that there is no merit in this writ petition. It is really on the basis of hyper-technical plea that a small matter of correction of Khasra Girdawari remained pending before Revenue Authorities for such a long time and the matter had to be brought up to this Court by way of the present petition. There is no denying the fact that the Kasra Girdawari had been corrected on the direction of the Collector and after the Assistant Collector, IInd Grade had corrected the same, the same were put up to the Collector, who had approved the same. In the fitness of the things, once the Collector approved the correction of the Khasra Girdawari, the appeal should not have been heard, by the Collector himself, but should have been heard and decided by the Commissioner. The aggrieved party, ix. the present respondents had rightly filed the appeal against the correction of the Khasra Girdawari, before the Commissioner. Even if, for argument sake, it is assumed that the Collector had passed the order on the administrative side, the Commissioner could decide the petition of the respondents as a revision petition. According to me, the learned Financial Commissioner had rightly held that appeal, under the circumstances, lay to the Commissioner.

5. For the foregoing reasons, I find no merit in the writ petition and the same is hereby dismissed, with no order as to costs. The Commissioner, Rohtak, is directed to decide the appeal of the present respondents on merits after affording opportunity to both the sides, expeditiously, preferably within four months from the receipt of the copy of this order.

