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Rajesh v. State Of Haryana, 2017 PLRonline 0205

Punjab and Haryana High Court

Amit Rawal J

Rajesh v. State Of Haryana

CWP No.10182 of 2017

12.05.2017

Punjab Land Revenue Act, Section 16(1) - Sanad takseem - Notification dated 10.04.2017 promulgated by the State of Haryana giving the powers to the Commissioner to deal with matters with regard to sanad takseem - The petitioner had challenged the order of the Commissioner and the Collector by filing the ROR before the Financial Commissioner but the same was not entertained owing to the aforementioned notification - The notification is silent with regard to its applicability, thus, in my view, it would apply prospectively - Even otherwise the order of the Collector being merged in the order of the Commissioner has been assailed before the Financial Commissioner and particularly when the petitioner had to challenge the sanad takseem, the power is only with the Financial Commissioner as per Section 16(1) of the Punjab Land Revenue Act.

Mr. Rakesh Lathwal, for the petitioner.

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AMIT RAWAL J.(ORAL) Notice of motion.

Mr. Saurabh Girdhar, AAG, Haryana accepts notice. The grievance of the petitioner is owing to the notification dated 10.04.2017 promulgated by the State of Haryana giving the powers to the Commissioner to deal with matters with regard to sanad takseem. The petitioner had challenged the order of the Commissioner and the Collector by filing the ROR before the Financial Commissioner but the same was not entertained owing to the aforementioned notification.

It is in this aspect of the matter, this Court requested Mr. B.R. Mahajan, A.G., Haryana to apprise this Court about the predicament of such litigants.

The notification is silent with regard to its applicability, thus, in my view, it would apply prospectively. Even otherwise the order of the Collector being merged in the order of the

Commissioner has been assailed before the Financial Commissioner and particularly when the petitioner had to challenge the sanad takseem, the power is only with the Financial Commissioner as per Section 16(1) of the Punjab Land Revenue Act and as well as in view of the judgment rendered by Division Bench of this Court in **Amar Khan and others Vs. State of Punjab** and others 2009(1) RCR (Civil) 741.

After hearing Mr. Mahajan, I am of the view that the petitioner has an efficacious remedy of filing ROR as the notification dated 10.04.2017 would apply prospectively to the new cases instituted seeking partition of the land and not in the matters which are pending adjudication.

Resultantly, the writ petition is disposed of with liberty to the petitioner to file the revision petition. The petitioner is directed to file the ROR in view of the aforementioned observations and in case such revision petition is filed, the Financial Commissioner shall decide the same in accordance with law.

(AMIT RAWAL)

JUDGE

May 12, 2017