

CWP No.14806-2013

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

CWP No.14806-2013

Date of Decision: 19.01.2015

Gurdev Singh

... Petitioner(s)

Versus

Collector, District Sangrur and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr.Aakash Singla, Advocate,
for the petitioner.

Dr. Deepa Singh, Addl. A. G. Punjab.

Mr. Vikas Singh, Advocate,
for respondent no.3.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the order dated 29.05.2013 (Annexure P-3) passed by respondent no.1-Collector, Sangrur whereby mutation nos.2272 and 2273 sanctioned by respondent no.2-Assistant Collector Ist Grade, Lehra have been ordered to be reviewed

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioner contends that after the

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sanction of mutations, the same stand incorporated in the record-of-rights i.e. jamabandi. Learned counsel further contends that on an application, mutations have been reviewed after nine years of its sanction. Learned counsel further contends that mutations have already been incorporated in the jamabandis for the years 2006-07 and 2011-12. As such, only remedy available under Chapter VI of the Specific Relief Act, 1887 read with provisions of Section 45 of the Punjab Land Revenue Act, 1887.

Per contra, learned State counsel and learned counsel for respondents no.3 and 4 vehemently oppose the contentions of learned counsel for the petitioner and support the impugned order (Annexure P-3). Learned counsel contend that the revenue authorities have power to review the mutations which were not sanctioned in accordance with law.

I have considered the rival contentions of learned counsel for the parties.

Admittedly, mutations no.2272 and 2273 were sanctioned which have been incorporated in the record-of-rights i.e. jamabandi for the years 2006-07 and 2011-12. Respondents no.3 and 4 are aggrieved by entries in the record of rights. It is settled law that if a person is aggrieved by an entry in the record-of-rights, jurisdiction of the revenue court is barred and the only remedy available is to file a civil suit under Chapter VI of the Specific Relief Act, 1887 read with provisions of Section 45 of the Punjab Land Revenue Act, 1887. The matter in hand is squarely covered by the decision rendered by a Division Bench of this Court in ***Rahul and others vs. State of Haryana and others*** 2012 (3)

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R.C.R. (Civil) 243 wherein it has been held as under:

“7. The question, thus, arises is as to “whether entries in the revenue records/mutations, consequent upon the decree passed by the Assistant Collector 1st Grade, which were further incorporated in the jamabandis, can be set aside/corrected by way of fard badar or could be set aside/corrected by way of a Civil Suit under Section 45 of the 1887 Act and the revenue authorities have only limited jurisdiction of correcting clerical errors by way of fard badar, in terms of paras 7.29 & 7.30 of the Manual?”

8. There is no dispute regarding the facts of this case. Admittedly, substantial variations have been made in the entries in jamabandi by way of fard badar No.1, as the earlier mutations were cancelled. It is categorically provided in Section 45 of the 1887 Act that where a person is aggrieved by an entry in the record of rights, the jurisdiction of the revenue court is barred as the only remedy available is to file a Civil Suit under Chapter VI of the Specific Relief Act, 1877. Insofar as paras 7.29 & 7.30 of the Manual are concerned, it only permits the correction of clerical mistakes appearing in the previous jamabandi which have crept in to the current jamabandi. In this regard, reliance is placed upon the law laid down in **Tarlok Singh's case (supra)** and it is, therefore, held that impugned fard badar (Annexure P-10) is patently illegal as it contravenes the provisions of Section 45 of the 1887 Act and paras 7.29 & 7.30 of the Manual and as the respondent No.3 had no jurisdiction to make substantial changes/variations in the jamabandi, which can only be carried out by way of a Civil Suit, in terms

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of Chapter VI of the Specific Relief Act, 1877.

9. *In view of the aforesaid discussion, the present writ petition is hereby allowed and the impugned order/fard badar (Annexure P-10) is hereby set aside accordingly, leaving it to the respondents to seek their remedy in accordance with law. It is also clarified that this order shall not be construed to be an opinion on the rights of parties.”*

In view of law laid down in ***Rahul's case (supra)***, instant petition is allowed and impugned order dated 29.05.2013 (Annexure P-3) is set aside.

However, respondents no.3 and 4 will be at liberty to approach the civil court for redressal of their grievance, if any, so advised.

19.01.2015
parveen kumar

(Paramjeet Singh)
Judge