

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

CWP-14061-2015 (O&M)
Date of decision : 31.07.2015

Anmol Kaur and another

...Petitioners

Versus

The Financial Commissioner (Revenue) Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Surinder Garg, Advocate,
for the petitioners.

JITENDRA CHAUHAN, J.

By way of the present writ petition filed under Articles 226/227 of the Constitution of India, the petitioners seek quashing of orders dated 04.03.2014, passed by respondent No.1 (Annexure P-5) which upheld the validity of unregistered will dated 25.08.2002 and dismissed petitioner's revision petition; dated 10.02.2010, passed by respondent No.2 (Annexure P-4) vide which the petitioner's appeal against Annexure P-3 was dismissed; and dated 12.09.2008, passed by respondent No.3 (Annexure P-3) whereby, mutation regarding inheritance of Late Shri Mohinder Pal was sanctioned in favour of respondent No.5; and further direction to the official respondents to sanction the mutation regarding the inheritance of Mohinder Singh in favour of all his natural heirs instead of respondent No.1.

The learned counsel for the petitioners contends that the unregistered Will dated 25.08.2002, has not been prepared as per the provisions of Section 63 of the Indian Succession Act. The Will in question also deserved to be discarded on the ground that the same does not contain the signatures of the Testator, Mohinder Singh. It is further submitted that the validity of the Will in question has already been challenged before the Civil Court.

I have heard learned counsel for the petitioners and gone through the case file.

It has been held in ***Shamsher Singh Vs. Commissioner, Patiala Division, Patiala and others, 2012(3) R.C.R. (Civil) 98*** that writ petition arising out of summary proceedings of mutation should ordinarily be not entertained and the parties should be left to get their respective title decided in a suit for declaration. Moreover, it is well settled that revenue entries are not the documents of the title. There are mentioned for fiscal purposes only. Para No.19 of the judgment reads thus:-

“19. This Court is pained to observe that parties are advised and misled to contest mutation before different revenue authorities upto the level of Financial Commissioner and this Court and thereafter to approach civil Court de novo to get their title decided. It not only amounts to multiplicity

of the litigation, but also results in financial loss and loss of mental peace to the litigants. Therefore, in the opinion of this Court, if mutation is opposed or contested by the parties claiming their respective title or inheritance, parties should be left to approach the civil Court to get their title decided and mutation proceedings should be kept in abeyance awaiting decision in civil suit. After abolition of land revenue in the States of Punjab and Haryana, nothing is to be recovered so even for fiscal purpose no mutation is required to be carried out if mutation is disputed/contested by their respective parties claiming their respective title. Mutation must be carried out strictly as per the ultimate judgment/decree in the suit. Meanwhile entry should be made to the effect that mutation is contested between such and such and shall be carried out as per the final judgment by civil Court so that prospective buyer cannot be cheated and misled by any party, on the basis of mutation.”

It is an admitted case of the petitioners that the question with regard to the validity and genuineness of the Will is *sub judice*

before the competent Civil Court between the legal heirs of deceased Mohinder Singh, though the mutation, on the basis of unregistered will, had already been sanctioned in favour of son of the deceased, but that does not confer any title in him. This Court is not inclined to express its opinion regarding genuineness of the alleged unregistered will on writ jurisdiction side. Therefore, this Court is not inclined to interfere at this stage, as the writ petition is misconceived.

Dismissed.

31.07.2015
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(JITENDRA CHAUHAN)
JUDGE