

CWP No. 20126 of 2013

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 20126 of 2013
Date of Decision : 03.11.2015

Faqir Singh and others

...Petitioners

Versus

Financial Commissioner (Revenue) Punjab and others

...Respondents

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. Harsh Bunker, Advocate for the petitioners.

Mr. S.S. Chandumajra, Addl. A.G., Punjab.

Mr. Vijay Rana, Advocate for respondent No. 5.

Paramjeet Singh, J. (Oral)

The instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari thereby quashing order dated 22.01.2007 (Annexure P-6) passed by Sub Divisional Magistrate-cum-Assistant Collector 1st Grade, Jalandhar, order dated 31.07.2007 (Annexure P-8) passed by ADC-cum-Collector,

Jalandhar, order dated 15.06.2009 (Annexure P-10) passed by Additional Commissioner (Appeals), Jalandhar Division, Jalandhar and order dated 08.01.2013 (Annexure P-13) passed by respondent No. 1-Financial Commissioner (Revenue) Punjab, whereby mutation has been sanctioned on the basis of Civil Court decree.

Brief facts of the case are that the petitioners along with others i.e. Waryama and Amru were having joint khata of land comprising 607 kanals, 05 marlas which consisting of Khewat No. 120 and Khatoni Nos. 241 to 255. Sucha Singh, petitioner is stepping into the shoes of Satnam Kaur, who was predecessor-in-interest of the property in question. Respondent No. 5(i), (ii) and (iii), who have claimed their right qua the land, are the legal heirs of Sucha Singh. As such, a decree was passed in favour of Sucha Singh on 28.09.1990 (Annexure P-3), whereby declaration has been given in favour of Sucha Singh (deceased). Said judgment dated 28.09.1990 (Annexure P-3) and decree annexed with the same is at page 38-39 of the paper book. As per the decree, declaration is to the effected of $1/6^{\text{th}}$ share of land measuring 144 kanal 10 marlas. Meaning thereby respondent No. 5 is entitled to 24 kanal 01 marla out of the land mentioned in the Civil Court decree. The legal heirs of Such Singh i.e. present respondent Nos. 5(i), (ii) and (iii) are entitled to only $1/6$ share.

Upon sale by a co-sharer, mutation cannot be sanctioned of a specific khasra number, the sale will be deemed to be of only a share in 144 kanal 10 marlas and if the petitioner or the respondent No. 5(i), (ii) and (iii) claim individual rights, they can get their share determined in partition proceedings.

In view of this, it is clarified that although the mutation is sanctioned but it will be deemed to have been sanctioned of the share only and not of specific khasra. There is no dispute that Sucha Singh, predecessor-in-interest of respondent No. 5 has only referred to 144 kanals out of total 607 kanals mentioned in Khewat No. 120. In view of settled position of law that even if specific khasra numbers are purchased by any person from a joint holding still the sale is to be treated of share in the joint khewat/khata.

The present writ petition is disposed of with the aforesaid observations.

November 03, 2015.
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(PARAMJEET SINGH)
JUDGE