

CWP No.17536 of 2015

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

**CWP No.17536 of 2015
Date of decision:09.09.2015**

Joginder Singh

...Petitioner

Versus

Sub Division Magistrate-cum-Collector and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. H.S.Dhandi, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

One Bhagwan Singh was the owner of the land measuring 182 kanal 6 marlas, situated in village Jhammat. He had four sons, namely, Darshan Singh, Joginder Singh, Major Singh and Manjit Singh; two daughters, namely, Daljit Kaur and Gian Kaur @ Manjit Kaur; and his widow, namely, Gurdial Kaur. Bhagwan Singh died on 01.01.1992 and executed a Will dated 15.08.1990 in favour of his widow and four sons, who applied for sanctioning of the mutation. The said mutation was contested by his daughters and one son Manjit Singh and the mutation was sanctioned on the basis of natural succession. The beneficiaries of the Will, i.e. Darshan Singh etc., challenged that order before the Commissioner, who accepted the appeal and ordered that the mutation be sanctioned in

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favour of five legal representatives of Bhagwan Singh on the basis of the Will. However, the Financial Commissioner reversed the order of the Commissioner. The petitioner and other persons filed Civil Suit No.579 dated 29.09.2007 in which *ad interim* injunction has been issued in regard to maintaining the *status quo* qua alienation and possession of the property in dispute and also the electric motor.

The daughters of Bhagwan Singh filed an application for *Fard Badar* alleging that they had obtained a copy of the jamabandi on 05.01.2015 and found that in Khasra No.46/37, ownership of Gurdial Kaur and others has been shown to the extent of 1/5th share, in Khewat No.672/627, it is shown to the extent of 1/7th share and since the entries are contrary to each other, the application was filed for *Fard Badar*. The said application was rejected by the Naib Tehsildar on 31.12.2014, against which an appeal under Section 13 of the Punjab Land Revenue Act, 1887 was filed. The said appeal has been allowed by the Collector observing that mutation No.4189 of the estate of Bhagwan Singh was sanctioned on 13.03.1996 on the basis of natural succession. The appeal was filed before the Collector, Ludhiana, which was dismissed on 13.06.1996. However, their revision was allowed by the Divisional Commissioner, Patiala on 08.01.2001 but the said order was reversed in revision by the Financial Commissioner on 27.09.2005. The Collector had observed that the order of the Financial Commissioner was not challenged by any of the parties and the Fard Badar was made to implement the said order and there is no stay by the Civil Court in regard to correction of the revenue record and, thus, the

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Fard Badar has been rightly made.

Although counsel for the petitioner has vehemently argued that the *Fard Badar* could not have been made when the Civil Suit is pending but it is not in dispute that the order of the Financial Commissioner, vide which sanctioning of mutation was ordered on the basis of the natural succession, has not been further challenged after the order of the Commissioner was reversed who had accepted the Will and ordered the mutation to be sanctioned on the basis of the said Will only. Once there is a difference in the jamabandi, i.e. clerical error in respect of the share, one on the basis of the Will and other on the basis of the natural succession, the learned Collector has rightly passed the order for maintaining the *Fard Badar* No.9.

In view of the aforesaid discussion, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

September 09, 2015
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(Rakesh Kumar Jain)
Judge