

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

Date of decision:31.03.2015.

Gulshan Kumar and others

.....Petitioners

v.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Diwan S.Adlakha,Advocate for petitioners.

Jaswant Singh,J.(Oral)

Petitioners by filing this writ petition under Article 226/227 of the Constitution are seeking quashing of orders dated 7.8.2014(P-4), 2011.2012(P-3) and 7.12.2011(P-2) passed by learned Financial Commissioner, Commissioner, Ambala Division,Ambala and Collector Jagadhari respectively, whereby appeal of the respondents 5 to 9 was allowed and the matter remanded back to Assistant Collector IInd Grade,Mustafabad for sanctioning mutation in respect of land measuring 54K5M left behind by deceased Sumitra Devi, mother of petitioners and respondents 5 to 10, after giving notice to respondents.

In brief, Smt.Sumitra Devi wife of Krishan Lal, mother of petitioners and respondents 5 to 10 died on 9.4.2010 leaving behind land measuring 54K5M situated at Village Nawashehar,District Yamuna Nagar. Assistant Collector IInd Grade, Mustafabad sanctioned mutation bearing no.347 in respect of said land in favour of

petitioners and respondents in equal share on the basis of natural succession. Respondents 5 to 9 who are daughters of deceased Sumitra Devi challenged the said mutation by filing an appeal before Collector, Jagadhari alleging therein that no notice was issued to them prior to sanctioning of mutation apart from that deceased Sumitra Devi had executed a registered Will dated 9.9.1992 in their favour and as such mutation should be sanctioned on the basis of said registered Will. The appeal filed by respondents 5 to 9 was allowed by Collector Jagadhari vide order dated 7.12.2011(P-2) on the ground of non-issuance of notice to all parties and remanding the case back to Assistant Collector IInd Grade. Against said order, petitioners preferred an appeal which was dismissed by learned Commissioner, Ambala Division, Ambala vide order dated 20.11.2012(P-3). Still dis-satisfied, petitioners preferred revision which was also dismissed by Financial Commissioner, Haryana vide order dated 7.8.2014(P-4). Hence the present writ petition.

It is submitted by the learned counsel for the petitioners that the Will set up by respondents 5 to 9 is based on fraud and misrepresentation and stands challenged in a civil suit pending before learned Civil Judge (Senior Division) Jagadhari, wherein injunction order dated 1.5.2012(P-6) has been passed. It is thus contended that the orders at Annexures P-2 to P-4 are liable to be set aside being illegal and arbitrary.

After hearing the learned counsel for the petitioners, I find no ground to interfere with the impugned orders.

The revisional authority while dismissing the revision filed by the petitioners has rightly held that fair adjudication of mutation proceedings, as mandated in the Punjab Land Revenue Act, requires proper notice to all concerned parties. It is not disputed that while sanctioning mutation no notice was given to respondents 5 to 9 by Assistant Collector IInd Grade, Mustafabad thus depriving them of the opportunity to produce the Will executed in their favour by deceased Sumitra Devi. As regards the genuineness or otherwise of the Will set up by respondents, the same shall be decided in appropriate proceedings by the Court which is seized of the matter. No prejudice has been caused to the petitioners by ordering issuance of notice to respondents 5 to 9 before sanctioning mutation in respect of property left behind by deceased Sumitra Devi, as the petitioners will have sufficient opportunity to challenge the outcome of such proceedings.

Dismissed.

31.03.2015.
joshi

(Jaswant Singh)
Judge