

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

Date of decision:20.04.2015.

Satender Pal

.....Petitioner

v.

State of Haryana and others

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Ms.Sharmila Sharma,Advocate for the petitioner

Jaswant Singh,J.(Oral)

Petitioner-objector has filed the present writ petition seeking a writ of certiorari for quashing the orders dated 1.8.2013 (P-6) and 12.1.2015(P-9) passed by Authorities below, whereby mutation in respect of land in question has been ordered to be sanctioned in favour of respondents 4 to 8.

It is averred that father of the petitioner had taken the land in dispute on lease for 99 years and mutation was sanctioned in his favour. It is alleged that private respondents by playing a fraud, filed a civil suit on behalf of the father of the petitioner by forging his signatures. In the said suit the father of the petitioner was got proceeded ex parte and ultimately the suit was dismissed and counter claim of private respondents was decreed vide judgment and decree dated 10.6.2008. Thereafter, on coming to know about the said fraud

and resultant judgment and decree, father of the petitioner moved an application for setting aside the ex-parte order, judgment and decree and counter claim of private respondents. The said application is concededly pending adjudication before Civil Judge (Sr.Div.) Pataudi, Gurgaon wherein notice has been issued to respondents.

On the basis of judgment and decree dated 10.6.2008, private respondents moved an application dated 28.8.2009 before Assistant Collector Ist Grade, Pataudi for change of mutation in their name. Upon notice of the said application, father of the petitioner raised objection. Assistant Collector Ist Grade, Pataudi vide order dated 8.6.2011 (P-5) in view of the pending proceedings before Civil Judge (Sr.Div.) Pataudi, adjourned the mutation proceedings sine die to await the decision of Civil Court. Aggrieved against the same private respondents filed an appeal before Commissioner, Gurgaon Range, Gurgaon, who vide impugned order dated 1.8.2013 (P-6) allowed the same, set aside the order dated 8.6.2011 and 27.11.2011 passed by Assistant Collector Ist Grade, Pataudi and directed that mutation no.4787 Village Narhera, Tehsil Pataudi, District Gurgaon be sanctioned on the basis of judgment and decree dated 10.6.2008 and 25.9.2009. In compliance thereof, Assistant Collector Ist Grade, Pataudi vide impugned order dated 12.1.2015 (P-9) sanctioned mutation no.4787, Village Narhera in favour of private respondents-decree holders. Hence the present writ petition.

It is submitted by the learned counsel for the petitioner that

learned Commissioner, Gurgaon Range, Gurgaon committed an illegality by passing order dated 1.8.2013(P-6) whereby appeal of private respondents was allowed during the pendency of the application filed by the father of the petitioner for setting aside the ex parte order, judgment and decree and counter claim of private respondents, especially when the said judgment and decree is based on fraud.

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

It is not disputed that in the application filed by the father of the petitioner for setting aside ex parte order, judgment and decree dated 10.6.2008 and counter claim of the respondents, proceedings are still going on and as on date no order in favour of applicant-father of the petitioner has been passed. It is also not disputed that even no stay has been granted in favour of the father of the petitioner. Thus, as on date the judgment and decree dated 10.6.2008 in favour of private respondents is legal and valid and revenue officials are bound to sanction mutation on the basis thereof. On the ground of pendency of proceedings before Civil Court the mutation proceedings cannot be kept in abeyance as has rightly been held by the Commissioner, Gurgaon Range vide impugned order dated 1.8.2013(P-6). Similarly, no fault can be found with the order dated 12.1.2015(P-9) passed by Assistant Collector Ist Grade, Pataudi, whereby mutation has been sanctioned in favour of private respondents on the basis of judgment

and decree dated 10.6.2008 in favour of private respondents and in compliance of the order dated 1.8.2013(P-6) passed by Commissioner, Gurgaon Range, Gurgaon, especially in the absence of any stay order against the said judgment and decree passed by Civil Court.

In view of the above, finding no merit in this writ petition the same is hereby dismissed.

20.04.2015.
joshi

(Jaswant Singh)
Judge