

CR No. 6273 of 2015
CR No.6323 of 2015

-1-

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

249

CR No. 6273 of 2015

Date of Decision: November 15, 2016

MOHINDER SINGH

-PETITIONER

VS

JASWANT SINGH AND OTHERS

-RESPONDENTS

CR No.6323 of 2015

MOHINDER SINGH

-PETITIONER

VS

JASWANT SINGH AND OTHERS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sarju Puri, Advocate
for the petitioner(s).

Mr.Charanpreet Singh, Advocate
for respondents No.1 and 2.

None for respondents No.3 to 5.

RAJ MOHAN SINGH, J. (ORAL)

Both the aforesaid revision petitions are being
disposed of vide common order.

Facts are being culled out from Civil Revision No.6273 of 2015 titled as Mohinder Singh vs Jaswant Singh and others.

One Sahibditta was the original owner of the property. He had two sons namely Hako and Narain. Hako died issueless. Narain was succeeded by Wattan Singh. After the death of Wattan Singh, property was devolved upon Piara Singh. Piara Singh had 29 Kanals 2 Marlas of land. He had three sons and three daughters. Jaswant Singh, Jaibir Singh are the plaintiffs and Mohinder Singh is the defendant along with his sisters as co-defendants.

Plaintiffs have staked their claim qua property of Piara Singh on the basis of Will dated 24.03.1995 whereas defendant claimed proportionate share on the basis of inheritance. The property was claimed to be ancestral property.

Petitioner-defendant claimed that there was no Will from Hako in favour of Wattan Singh, rather Wattan Singh got the property from Hako by way of survivorship. Pleadings vis-a-

vis the property being ancestral in terms of plaint and written statement are not relevant for the purpose of decision of this revision petition as it may prejudice the case of either side at trial.

In order to connect inheritance with Sahibditta and also to prove the property being ancestral, defendant-petitioner filed an application for production of *Intkhab/excerpt* by way of issuance of direction to the Halqa Girdawar/revenue officer to prepare the same. Halqa Girdawar prepared the *Intkhab* (Ex.DX) wherein copy of jamabandi for the year 1925-26 was shown in Urdu and was made part of the *Intkhab*. Copy of mutation No.1606 of inheritance of Hako by Wattan Singh was also shown but mutation in respect of Sahibditta in favour of Hako was missing from the excerpt. On production of excerpt, statement of Halqa Girdawar was made to the effect that record pertaining to the period from 1972-73 till 2007-08 was examined by the Halqa Girdawar and he made the statement to the effect that prior to 1971-72, record was not available. DW Nasib Singh

also made a statement that the record pertaining to the year 1960 could not be traced out.

Learned counsel for the petitioner submitted that on seeing the document (Ex.DX), the factum of mutation No.1606 of inheritance from Hako to Wattan Singh was very much noticed, but mutation from Sahibditta to Hako was conspicuously missing. The said omission on the part of Halqa Girdawar prompted the petitioner to file another application seeking production of entire *Intkhab* including mutation of inheritance from Sahibditta to Hako. The delay, if any, in the process is sought to be condoned by way of paying adequate costs.

On the assertion being made by learned counsel for the petitioner-defendant, though learned counsel for respondent No.2 contested the issue hotly for some time ultimately both the parties are *ad idem* that one opportunity can be granted to the defendant for production of complete *Intkhab* by the Halqa Girdawar including mutation from Sahibditta to Hako in order to show nature of property whether Hako received the property as

ancestral property or otherwise?

Now both the parties have agreed that necessary directions be issued to Halqa Girdawar to prepare complete excerpt in the given context and the same be produced by the defendant in his evidence subject to payment of costs of Rs.25,000/- payable to the plaintiff.

Both these revision petitions are allowed, impugned orders dated 09.07.2015 and 20.08.2015 passed by Civil Judge (Jr. Divn), Hoshiarpur are set aside. Trial Court shall obligate the concerned Halqa Girdawar to do the needful in the context of preparing complete *Intkhab/excerpt* of the property of Sahibditta from the channels of Hako as well as Narain and submit the same to the Court.

The latch/omission on the part of the defendant is ordered to be condoned by imposing aforesaid costs. Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid manner.

Keeping in view the nature of litigation and the period

CR No. 6273 of 2015

-6-

CR No.6323 of 2015

for which both the parties have litigated in the Court of law, trial Court would make every endeavor to decide the main controversy as early as possible. Trial Court is directed to provide one effective opportunity to the defendant to lead his entire evidence.

15.11.2016

Jyoti Y.

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No