

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

CWP No. 15042 of 2016

DATE OF DECISION : 16.08.2016

Narinder Singh

.... PETITIONER

Versus

State of Union Territory, Chandigarh and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Amandeep Singh Jawanadha, Advocate,
for the petitioner.

* * *

RAMENDRA JAIN , J.

1. Claiming himself to be co-owner of House No. 2894, Sector 38-C, Chandigarh, along with his brother Jaswinder Singh (respondent No.3) on the basis of registered Will dated 17.11.2006 (Annexure P-1) executed by his grand-father Mewa Singh, the petitioner has filed this petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari to quash the letter dated 10.02.2016 (Annexure P-8) issued by respondent No.2, asking him to get his rights and title with regard to ownership of the aforesaid house determined from the civil court. Further prayer has been sought to issue a writ in the nature of mandamus to direct the respondent authorities to enter and sanction the mutation of the house in question in favour of the petitioner and respondent No.3, as per the aforesaid registered Will dated 17.11.2006.

2. Mewa Singh, grand-father of the petitioner, being owner of the house in question, executed a registered Will dated 17.11.2006 (Annexure

P-1) in favour of the petitioner and respondent No.3. Thereafter, upon the death of Mewa Singh, the petitioner applied to the respondent authorities for transfer of the ownership rights in respect of the house in question in terms of the registered Will. On receipt of the said application of the petitioner, respondent No.2 wrote a letter dated 23.10.2013 (Annexure P-2) to respondent No.3, another beneficiary under the Will, asking him to apply for transfer of his share in the house. In response to this letter, respondent No.3 submitted an application dated 14.01.2014 to the respondent authorities claiming himself to be the absolute owner of the said house on the basis of another Will dated 15.12.2010 (Annexure P-5) executed by Mewa Singh, and requested them to stop the transfer of ownership in respect of the said house. Vide letters dated 28.02.2014 and 08.05.2014 (Annexures P-3 and P-4), respondent No.2 asked respondent No.3 to produce the Will dated 15.12.2010 alleged to be executed in his favour. Accordingly, the said Will was produced by respondent No.3. Thereafter, on 08.08.2014, the respondent authorities got published a public notice (Annexure P-6) in three news papers, mentioning that the petitioner has applied for transfer of ownership to the extent of 30% + 10% share in respect of the house in question in his name on the basis of registered Will dated 20.05.2011 and if any body have any objection to the same, he/she/they may furnish the same within 30 days from the date of publication of the notice. Since respondent No.3 had already raised objection to the transfer of ownership of the house on the basis of Will dated 17.11.2006, while relying upon another Will dated 15.12.2010 in his favour, therefore, vide letter dated 10.02.2016 (Annexure P-8), respondent No.2 asked the petitioner to

approach the civil court to get his rights and title over the house in question determined. Aggrieved by the said letter, the petitioner submitted representation dated 09.05.2016 (Annexure P-9) to respondent No.2, requesting the respondent authorities to transfer the ownership of the house in question on the basis of Will dated 17.11.2006 and simultaneously filed the present writ petition.

3. The sole contention raised by learned counsel for the petitioner is that the impugned letter dated 10.02.2016 (Annexure P-8) by respondent No.2 asking the petitioner to approach the civil court to get his rights and title determined is in violation of notification dated 23.04.2014 (Annexure P-7), which stipulates that if the Estate Officer receives an objection from any legal heir against the transfer of ownership of immovable property in the name of the holder of a registered Will, then the objector should be asked to get the dispute settled from the competent court of jurisdiction regarding the genuineness of the Will, but during the pendency of the dispute, the ownership shall be transferred in the name of the holder of the registered Will subject to the final outcome of the case.

4. We have given our thoughtful consideration to the aforesaid contention.

5. It is an admitted case of the petitioner that his real brother Jaswinder Singh (respondent No.3) submitted an application to respondent No.2 raising an objection to the transfer of share in the house in question on the basis of registered Will dated 17.11.2006 executed by his grand-father Mewa Singh. By way of the said application, respondent No.3 claimed himself to be the absolute owner of the house on the basis of another Will

dated 15.12.2010 (Annexure P-5) executed by Mewa Singh. Thus, both the brothers are raising claims and counter-claims over the property left by their grand-father, on the basis of two separate Wills. The genuineness of both the Wills is yet to be established on the basis of evidence. Thus, in order to avoid multiplicity of litigation, vide letter dated 10.02.2016 (Annexure P-8), respondent No.2 has rightly asked the petitioner to approach the civil court to get his rights and title over the house in question determined. Since the petitioner and respondent No.3, both real brothers, are claiming ownership of the house in question on the basis of separate Wills in their favour, therefore, the respondent authorities have rightly not transferred the ownership of the house in the name of any of the brothers subject to final outcome of the case before the civil court, and action of the respondents to ask the petitioner to approach the civil court cannot be said to be arbitrary or in violation of the notification dated 23.04.2014.

6. In view of the above, we do not find any merit in the instant writ petition and the same is, accordingly, dismissed.

**(RAMENDRA JAIN)
JUDGE**

August 16, 2016
ndj

**(AJAY KUMAR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No