

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

**CWP No.16372 of 2016
Date of decision: 12.08.2016**

Amarjit Kaur and another

... Petitioners

Vs.

Financial Commissioner (Appeals), Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. A.S. Gill, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, J. (ORAL)

Present writ petition is directed against the order dated 29.06.2016 (Annexure P-13) passed by the Financial Commissioner (Appeals), Punjab, whereby the revision petition filed by the petitioners was dismissed and order dated 11.04.2016 (Annexure P-11) passed by the Commissioner, Jalandhar Division, Jalandhar was upheld.

Heard learned counsel for the petitioners.

It has gone undisputed before this Court that the Will dated 30.08.2011 (Annexure P-1) on the basis of which mutation No.1455 was initially sanctioned in favour of the petitioners, came to be challenged by respondent No.5 by way of a suit for declaration. It is also a matter of record that Civil Suit between the parties is pending before the learned Court of competent jurisdiction, wherein this very Will dated 30.08.2011 is under challenge. In fact, after sanctioning the mutation in favour of the petitioners, respondent No.5 came to know about the existence of the Will and the same was challenged before the

learned Civil Court by way of suit for declaration.

This material fact having been brought to the notice of the Commissioner, Jalandhar Division, Jalandhar, he rightly accepted the revision petition filed by respondent No.5, vide his impugned order dated 11.04.2016 (Annexure P-11) and operative part of the impugned order, reads as under: -

“I have considered the arguments advanced by Ld. Counsel for the parties and have gone through the record received in the case and papers brought on the file. I find that the revision petition deserves to be accepted. The mutation NO.1455 of Village Sajjanwal, Tehsil Shahkot, District Jalandhar has been wrongly sanctioned. The unregistered will dated 30.08.2011 has not been proved even by witnesses and also the property being ancestral property cannot be willed away. Therefore the revision petition is accepted and the order dated 14.10.2013 passed by the Collector (ADC), Jalandhar and AC 1st Grade, Shahkot dated 27.09.2012 are set aside. The case is remanded to the AC 1st Grade (SDM) Shahkot, District Jalandhar, for decision after entering and sanctioning a fresh mutation of inheritance as per all legal heirs in equal shares. The case is remanded to the A.C. 1st Grade (SDM), Shahkot for 27.05.2016. The revision petition is accepted.”

Feeling aggrieved against the abovesaid impugned order passed by the Commissioner, Jalandhar Division, Jalandhar, petitioners filed their revision petition before the Financial Commissioner, who dismissed the same vide impugned order dated 29.06.2016 (Annexure P-13). A bare reading of both the impugned orders passed by the Commissioner as well as Financial

Commissioner would show that both these revenue authorities proceeded on a factually correct and legally justified approach, while passing their respective impugned orders and the same deserve to be upheld.

Commissioner, Jalandhar Division, Jalandhar has rightly remanded the case to the Assistant Collector 1st Grade. It also goes without saying that ultimately the decision rendered by the learned Civil Court, on the validity of the Will in question, shall prevail upon. Mutation does not confer any title. Rights of the parties about the ownership shall get crystallized only in the Civil Suit, which is pending between them. Having said that, this Court feels no hesitation to conclude that neither the Commissioner nor the Financial Commissioner committed any error of law, while passing their respective impugned orders and the same deserve to be upheld, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

12.08.2016

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No