IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No. 17764 of 2016
Date of Decision: 30.8.2016

Balwinder Kaur and another

.....Petitioners

Vs.

Financial Commissioner, Appeals, Punjab, Chandigarh and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Gagandeep Singh Sirpikhi, Advocate
for the petitioner.

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<u>RAMESHWAR SINGH MALIK J. (ORAL)</u>

Instant writ petition is directed against the order dated 10.2.2016 (Annexure P-4) passed by the Financial Commissioner (Appeals) Punjab-respondent No.1, whereby order dated 16.2.2010 passed by the Divisional Commissioner was set aside and the orders 3.12.2008 passed by the District Collector and 9.4.2007 passed by the Assistant Collector 1st Grade were upheld, sanctioning the mutation on the basis of will.

Heard learned counsel for the petitioners.

It is a matter of record that will dated 25.8.1999 is in favour of respondents No. 5 to 9. They set up the will before the revenue authorities and sought entry of mutation on the basis thereof. After hearing both the parties, revenue authorities, prima facie, found the will to be genuine and the mutation was accordingly sanctioned on the basis of the said will. The Financial Commissioner has rightly held that it is the exclusive domain of the civil court to record ultimate findings about the validity of a will. It is also not in dispute that the petitioners, who are feeling aggrieved against the will, have not challenged the same so far, by filing any suit for declaration before the learned court of competent jurisdiction. It has already been made clear by the Financial Commissioner that remedy for the petitioners lies before the civil court.

It also goes without saying that if the will in question is found to be invalid by the learned court of competent jurisdiction, at the instance of the petitioners, the revenue authorities would be bound by the civil court decree and the same shall be acted upon accordingly. Under these circumstances, it can be safely concluded that the Financial Commissioner had committed no error of law, while passing the impugned order and the same deserves to be upheld.

During the course of hearing, learned counsel for the petitioners could not point out any patent illegality or perversity in the impugned order passed by the Financial Commissioner. Further, he could not show any prejudice which might have been caused to the petitioners by passing of the impugned order.

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, instant writ petition stands dismissed, however, with no orders as to costs.

30.8.2016 **(RAMESHWAR SINGH MALIK)**
Ak Sharma **JUDGE**

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No