

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 19718 of 2016

Date of Decision: 22.9.2016

Sukhjit Singh

.....Petitioner

Vs.

Kaakan Ram @ Sadhu Ram and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Bhavyadeep Walia, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 5.1.2015 (Annexure P-3), passed by respondent No.2, whereby he ordered to cancel mutation No. 4081 dated 30.1.2011 qua the residential house owned by respondent No.1, who is father of the petitioner and a senior citizen as well.

Heard learned counsel for the petitioner.

It is a matter of record that respondent No.1 was absolute owner of the residential house in question. Said residential house was transferred by respondent No.1 in favour of the petitioner. Accordingly, mutation No. 4081 dated 30.1.2011 was sanctioned in favour of the petitioner qua abovesaid residential house. Respondent No.1 is an old man of more than

70 years of age. It was his allegation, while moving the appropriate application under the provisions of Maintenance and Welfare of Parents and Senior Citizens Act, 2007, against the petitioner that after getting the abovesaid mutation sanctioned in his favour, petitioner started showing his colours and threw respondent No.1 out of the house.

Respondent No.1 transferred the residential house in favour of the petitioner with the hope that petitioner shall take care of him in his old age. However, the petitioner was maintaining respondent No.1 only for the purpose of getting the property transferred in his name. Other sons of respondent No.1 also refused to maintain him, saying that when he transferred the residential house in favour of the petitioner, it was his duty to maintain respondent No.1.

Having been left with no other option, respondent No.1 sought cancellation of the abovesaid mutation qua residential house. Respondent No.2 passed the impugned order Annexure P-3, after hearing both the parties and granting due opportunity of being heard to the petitioner. It is also pertinent to note here that despite specific and categorical order, directing the petitioner to hand over possession of the residential house to respondent No.1-his father, he did not do so, for the reasons best known to him.

He is still forcibly continuing in possession of the house owned by respondent No.1, despite lapse of more than 1 year and 9 months. No explanation is forthcoming as to why the petitioner did not either challenge the impugned order earlier or also did not hand over vacant possession of the house to respondent No.1. Having said that, this Court feels no hesitation to conclude that respondent No.2 committed no error of law, while passing the impugned order and the same deserves to be upheld.

It also deserves to be noticed here that, at the very outset, this Court had issued notice of motion for the limited purpose of exploring the possibility of an amicable settlement between the parties, however, it was not acceptable to the learned counsel for the petitioner. This conduct of the petitioner makes it crystal clear that he has been proceeding on a malafide approach right from day one. His only object seems to be to grab the property owned by his father. He was successful in getting the house transferred in his name and got the mutation sanctioned. Thereafter, under the abovesaid compelling circumstances, his father moved appropriate application against the petitioner seeking cancellation of the mutation qua the residential house. Once the petitioner is not ready even today to persuade his father making a sincere effort to settle the matter amicably, he is not entitled for any sympathy from this Court, as well.

Conduct of the parties is one of the relevant considerations for deciding any lis. Petitioner has misconducted himself to such an extent that he has made himself liable for cancellation of abovesaid mutation. He also seems to be an incorrigible person. His father as well as brothers have deposed against him. Conduct of the petitioner reveals an unfortunate story behind this unwarranted litigation between father and son. It was least expected from the petitioner to behave properly with his father, at least, at this stage, after passing of the impugned order against him, however, he seems to be adamant. In this view of the matter, it can be safely concluded that impugned order has been rightly passed by respondent No.2 against the petitioner. Further, no prejudice of any kind, whatsoever, has been shown which might have been caused to the petitioner, 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 instant 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

22.9.2016
Ak Sharma

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