

Civil Writ Petition No. 22006 of 2016

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

**Civil Writ Petition No. 22006 of 2016
Date of Decision: 22.10.2016**

Harpreet Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Shailendra Sharma, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

Present writ petition is directed against the order dated 8.2.2016 (Annexure P-4), passed by the Financial Commissioner, Punjab-respondent No.2, whereby revision petition filed by the petitioner was dismissed, upholding the order passed by the Commissioner, Patiala Division Patiala, on the basis of a civil court judgment and decree dated 5.10.2012, in a case of mutation on the basis of Will.

Heard learned counsel for the petitioner.

It is a matter of record that both the parties propounded two different Wills. The Will propounded by the petitioner was registered Will dated 31.8.2000 whereas Will set up by the other side was an unregistered Will dated 22.7.2004. It is also not in dispute that unregistered Will dated 22.7.2004 set up by the respondents was found to be a genuine Will and was duly proved before the learned civil court in civil appeal No. 0722 of 2006 which came to be decreed vide judgment and decree dated 5.10.2012. It is

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also a matter of record that against the judgment and decree dated 5.10.2012 passed by the learned trial court, first appeal filed by the petitioner is pending decision before the learned first appellate court.

Considering the abovesaid material facts, learned Financial Commissioner rightly passed the impugned order after recording cogent finding which has been found based on sound reasons. The relevant operative part of the impugned order dated 8.2.2016 (Annexure P-4), passed by the Financial Commissioner, which deserve to be noticed here, read as under:-

“Aggrieved from this order, respondents filed an appeal in the court of Commissioner Patiala Division, Patiala, on the grounds that execution of registered Will dated 31.8.2000 is surrounded by suspicious circumstances as the present petitioner was a child of 10 years and cannot be said to be serving late Amar Singh, all the attesting witnesses of the Will made statements different from each other. Commissioner, Patiala Division, Patiala vide order dated 1.12.2009, accepted the appeal and remanded the case back to Assistant Collector 1st Grade, Dera Bassi for fresh decision after hearing both the parties in detail. Hence, the present revision petition.

Arguments of counsels of both the parties were heard and records were perused. The respondents counsel also presented a copy of order of Civil Court which has found the 22.7.2004 unregistered Will genuine and fully proved. On the basis of said order, all arguments of petitioner collapses and the appeal is liable to be dismissed, I hereby dismiss the revision petition with direction that mutation be done as per Civil Court order on basis of 2004 Will.”

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It goes without saying that finally whatever will be the decision of the civil court, said final civil court decree shall be binding between the parties as well as on all the revenue authorities. As on date, abovesaid civil court decree dated 5.10.2012 is in favour of the private respondents and the revenue authorities would be under legal obligation to ensure strict compliance of the abovesaid civil court decree. However, it is also equally true that mutation does confer any title. Mutation is entered and sanctioned by the revenue authorities under relevant provisions of law only for fiscal purposes and also to put the revenue record straight. If the petitioner ultimately succeeds in the civil litigation, he shall be entitled for fruits thereof, including qua the mutation in question.

No other argument was raised.

Keeping in view the peculiar facts and circumstances of the case, noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned orders passed by the respondent revenue authorities have not been found suffering from any patent illegality or perversity, the same deserve to be upheld. No prejudice of any kind whatsoever has been shown which might have been caused to the petitioner by passing of the impugned order.

With the abovesaid observations made, present writ petition stands disposed of.

(RAMESHWAR SINGH MALIK)
JUDGE

22.10.2016
Ak Sharma

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