

Civil Writ Petition No. 22355 of 2016
Civil Writ Petition No. 22385 of 2016

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

Civil Writ Petition No. 22355 of 2016
Date of Decision: 23.11.2016

Mahant Parminder Nand Giri

.....Petitioner

Vs.

Financial Commissioner, (Revenue), Punjab and others

.....Respondents

Civil Writ Petition No. 22385 of 2016

Mahant Parminder Nand Giri

.....Petitioner

Vs.

Financial Commissioner, (Revenue), Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Ms. Dolly, Advocate for
Mr. Mandeep Singh Sodhi, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK J. (ORAL)

This order proposes to decide two identical writ petitions, bearing CWP No. 22355 and 22385 of 2016, as both the writ petitions have been filed by the same petitioner and raise identical question of facts. However, for the facility of reference, facts are being culled out from CWP No. 22355 of 2016.

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Both these writ petitions are directed against the order dated 31.8.2016 (Annexure P-5) passed by the Financial Commissioner (Revenue), whereby two revisions filed by the petitioner were dismissed by passing a common detailed and speaking order, upholding the order dated 17.2.2016 (Annexure P-3) passed by the Commissioner, Faridkot Division, Faridkot, order dated 5.2.2013 (Annexure P-2) passed by Collector, Faridkot as well as order dated 25.4.2012 (Annexure P-1) passed by the Assistant Collector Grade-I, Kotkapura, in a case of mutation.

Heard learned counsel for the petitioner.

When the mutation proceedings were going on, petitioner failed to bring on record any material in his favour. It was respondent No.5, who was found entitled for the mutation in his favour, on the basis of sufficient material available on record. Accordingly, mutation Nos. 3582 and 3345 were entered and sanctioned in favour of respondent No.5. It is also not in dispute that case of the petitioner was based on a Will in his favour. It was rightly observed by the Financial Commissioner, in the earlier round of litigation, while passing the order dated 29.7.2004 in ROR Nos. 234 and 245 of 2004 that Will could not have been executed for the land of Dera. It was only the Bheikh, through a resolution, who could have appointed a Manager for the Dera. The mutation could have been sanctioned in the name of Manager, so appointed by the Bheikh, by way of resolution.

In compliance of the observations made by the Financial Commissioner in his abovesaid order dated 29.7.2004, impugned order dated 25.4.2012 (Annexure P-1) came to be passed by the Assistant Collector, 1st Grade, Kotkapura, rejecting the claim of the petitioner. Two appeals were

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filed by the petitioner which were dismissed by the Collector, Faridkot, vide impugned order dated 5.2.2013 (Annexure P-2). Feeling aggrieved, petitioner filed two identical revision petitions which also met the same fate at the hands of Commissioner, Faridkot Division, when he dismissed the same, vide order dated 17.2.2016 (Annexure P-3). Thereafter, petitioner filed two identical revisions before the Financial Commissioner, who dismissed both the revision petitions, vide common order dated 31.8.2016 (Annexure P-5). Hence these two writ petitions before this Court.

During the course of hearing, when confronted with the only relevant aspect of the matter, as to whether the Will could have been executed in favour of the petitioner qua the property of Dera, learned counsel for the petitioner had no answer and rightly so, it being a matter of record. She also could not refer to any other relevant provision of law, which might advance the case of the petitioner. There is no material available on record, which might throw some light in favour of the petitioner. In fact, petitioner had no case either on facts or in law. All the four revenue authorities, right from Assistant Collector 1st Grade up to Financial Commissioner, have recorded their concurrent findings of facts.

As noticed hereinabove, entire case of the petitioner was based on an unregistered Will, purportedly executed by his father-Mahant Sarupa Nand, in his favour. Petitioner was claiming himself to be his Chela, by virtue of this Will and was claiming the mutation of the property of Dera in his favour. It has gone undisputed before this Court that erstwhile mahant had no authority to bequeath the property of Dera, by executing a Will. Having said that, this Court feels no hesitation to conclude that since the

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respondent revenue authorities committed no error of law, while passing their respective impugned orders, the same deserve to be upheld.

Further, learned counsel for the petitioner could not point out any patent illegality or perversity in the impugned orders. She also could not point out any prejudice, which might have been caused to the petitioner, by passing of the impugned orders, warranting interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India. Under these circumstances, noticed hereinabove, it can be safely concluded that all the revenue authorities were well within their jurisdiction to pass their respective impugned orders, which 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 both these writ petitions are wholly misconceived, bereft of merit and without any substance, thus, these must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, both these writ petitions stand dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

23.11.2016
Ak Sharma

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