

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

LPA No.234 of 2016 (O&M)

Date of decision: 22.04.2016

Buta Ram (Deceased) through LRs

----Appellant

Versus

Financial Commissioner, Punjab, Civil Secretariat,
Chandigarh and others

----Respondents

**Coram: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Harinder Singh Sidhu**

Present: Mr. Avtar S. Khinda, Advocate
for the appellant.

HARINDER SINGH SIDHU, J.

This intra-Court appeal under Clause X of the Letters Patent has been filed against the judgment dated 16.09.2015 of the learned Single Judge, whereby, CWP No.27962 of 2013 filed by the respondents No. 5 to 8 has been allowed. Along with the appeal, the application seeking condonation of 48 days delay in re-filing the appeal has also been filed.

On 19.03.1979, Karnail Singh predecessor- in- interest of respondents No.5 to 8 was allotted land measuring 48 kanals from Khasra No.510 min (287 K-0M) in Village Nawanpind Bathe, Tehsil and District Kapurthala. In this regard, mutation No.9660 was sanctioned in his favour on 28.10.1984. An application dated 23.01.2006 was presented by the predecessor- in- interest of the appellants before the Deputy Commissioner, Kapurthala alleging that mutation No.9660 dated 28.10.1984, had not been sanctioned in accordance with the allotment order dated 19.03.1979 that they were in possession of 17 Kanals out of Khasra No.510, wherein they had also

raised construction. The Patwari entered the new mutation No.4742 and presented before the Assistant Collector 1st Grade Kapurthala as being contested. On behalf of the respondents it was contended that the mutation No.9660 has been rightly sanctioned. It had been reflected in numerous Jamabandis and after 23 years, the Revenue Officer had no power to effect a change in the mutation, which could only be done by the Civil Court. Accepting this contention, the Assistant Collector, Ist Grade rejected mutation No.4742 vide his order dated 29.01.2008. The appeal filed by the appellant against the said order before the Collector, Kapurthala was allowed on 25.07.2008. Respondents No. 5 to 8 challenged the order of the Collector before the Commissioner (Appeals), Jalandhar Division, who dismissed their appeal on 30.01.2009. Their revision before the Financial Commissioner was also dismissed on 20.09.2012. Aggrieved, they filed Writ Petition, which has been allowed.

Learned Single Judge relying on two Division Bench judgments of this Court in **Tarlok Singh Vs. Financial Commissioner Co-operation, Punjab, Chandigarh and others 2004(3) R.C.R. (Civil) 548 (DB)** and **Rahul and others Vs. State of Haryana and others 2012 (3) R.C.R. (Civil) 243** held that the entry of mutation having been incorporated in the Jamabandis could not be changed after 23 years by resorting to paragraph No.7.30 of Punjab Land Record Manual where under only clerical errors can be corrected. Such a correction could be effected only by way of a Civil Suit in terms of Section 45 of the Punjab Land Revenue Act, 1887.

Learned counsel for the appellant could not dispute the aforesaid legal position.

Thus , we find no infirmity in the impugned order.

The appeal is dismissed. Consequently, the application seeking condonation of 48 days delay in re-filing the appeal is also dismissed.

**(RAJESH BINDAL)
JUDGE**

**(HARINDER SINGH SIDHU)
JUDGE**

April 22, 2016
Atul