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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8559-1996

Date of decision : 16.03.2017

Surender

... Petitioner(s)

Versus

State of Haryana and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. Arjun Lakhanpal, Advocate
for the petitioner.

Mr. Sandeep Singh Mann, Sr. DAG, Haryana.

AMIT RAWAL, J. (ORAL)

Prayer in the present writ petition is for issuance of a writ in the nature of *certiorari* quashing the orders dated 25.03.1996 (Annexure P-4) passed by the Commissioner, whereby the appeal against the order dated 24.07.1995 (Annexure P-3) passed by the Collector remanding back the matter to the subordinate court i.e. Assistant Collector, 1st Grade, in respect of mutation proceedings qua share of Bhoru son of Raju, has been dismissed.

This Court, on 05.06.1996, while issuing notice of motion, ordered that the proceedings may go on, but the final order shall not be passed.

Though the order of the Commissioner was appealable by filing a revision petition before the Financial Commissioner, but the fact remains that the petitioner is seeking the claim on the basis of the property left by

Bodhu on the basis of Will dated 14.10.1991 and adoption deed dated 08.01.1990 executed by the deceased Bhoru, regarding which the civil suit is pending.

It is a settled law that the mutation proceedings cannot be kept in abeyance in view of the *ratio decidendi* culled out by the Division Bench of this Court rendered in “Jagjit Singh vs. Divisional Commissioner Patiala and others” 2012 (13) RCR (Civil) 96 and whatever would be the outcome of the civil suit, ultimately whosoever succeeds in the civil suit with regard to the property of Bhoru proving the Will and the adoption deed or otherwise upto the final Court, will be entitled to seek the sanction of the mutation as mutation does not confer the title particularly when there is a dispute with regard to the same being only for the fiscal purpose. Even otherwise, it was only a remand case. The decision on the civil suit must have been rendered.

Keeping in view the aforementioned facts, I deem it appropriate to disposed of the present writ petition with liberty to the parties to take all possible pleas before the Assistant Collector 1st Grade to whom the matter was remanded back and the order of which had been affirmed by the Commissioner.

With the aforementioned observations, the present writ petition stands disposed of.

16.03.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**