

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.16312 of 2014
DATE OF DECISION: March 1,2017

Mohd. Ali

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr.G.N.Malik, Advocate for the petitioner.
Ms.Monica Chhibber Sharma, Deputy Advocate
General, Punjab.
Mr.Puneet Pali, Advocate for
Mohd. Salim, Advocate for respondent Nos.6 and
7.

AMIT RAWAL, J.

Initially, the suit bearing No.379 of 19.9.1987 was filed by Rehmi and others v. Nizam Din, whereas, other suit bearing No.156 of 6.3.1990 was filed by Mst. Ramzanan v. Mohd. Din and others. During the pendency of the suits, Rehmi died and the petitioner along with respondent Nos.6 and 7 were allowed to be impleaded as legal heirs. Both the suits were dismissed. However, the appeal bearing No.118 of 6.6.1995 was preferred. The First Appellate Court vide judgment and decree dated 7.4.1998, Annexure P.2, decreed the suit filed by the legal heirs to the extent of 1/6th

share. However, the revenue authorities caused the mutation of 1/6th share in favour of respondent Nos.6 and 7, who were also one of the legal heirs of Rehmi in the title of the suit. Thus, the impugned orders passed by the revenue authorities are not in accordance with the aforesaid decree.

On the contrary, learned counsel for the State as well as the private respondents submits that the orders do not call any interference as the same are based on appreciation of evidence.

I have heard learned counsel for the parties and have also perused the record.

The Financial Commissioner, Punjab had upheld the order of the Divisional Commissioner on the premise that the mutation has been caused on the basis of Civil Court decree. For the sake of convenience, the operative part of the decree dated 7.4.1998, Annexure P.2, rendered by the First Appellate Court is reproduced as under:

“In view of the above discussion, I am of the opinion that the appeal succeed and are accepted with costs. Since that the appeals succeed and are accepted with costs. Since Mst. Ramzanan has given up her claim and Mst. Fatma and Mst. Khairi have not filed any appeal, suit No.379 of 19.9.1987 filed by the legal

heirs of Rehmi for possession to the extent of 1/6th share in the suit land, situated in both the villages, is decreed and suit No.156 dated 6.3.1990 filed by Ms. Ramzanan and others is also decreed for permanent injunction restraining the defendants from alienating the land more than their share out of the land in dispute, fully described in the heading of the plaint. Decree sheet be prepared. A copy of this judgment be placed on the file of the other appeal and thereafter the files be consigned to the record room."

On the basis of the aforementioned relief granted, the mutation has to be caused in favour of the legal heirs and not only respondent Nos.6 and 7 to the extent of 1/6th share.

Resultantly, the impugned orders are set aside. The mutation is ordered to be caused in favour of all the legal heirs of Rehmi as reflected above.

With the aforesaid observations, the present petition is allowed.

March 01,2017
KD

(AMIT RAWAL)
JUDGE

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