

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

CWP No.132 of 2017

Date of Decision.30.01.2017

Davinder Pal Singh and others

.....Petitioners

Vs

Financial Commissioner (Appeals) Punjab and others

.....Respondents

Present: Mr. R.D. Bawa, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

-.-

AMIT RAWAL J. (ORAL)

The petitioners are aggrieved of the impugned orders (Annexure P-14 and P-16) whereby the Collector had rejected the second objection which has been accepted in the aforementioned impugned orders.

Mr. R.D. Bawa, learned counsel appearing on behalf of the petitioners submits that as per the agreement to sell dated 05.12.2006, the private respondent Nos.3 and 4 agreed to sell the land measuring 19 kanals 14 marlas including the khasra No.434 measuring 1 kanal 19 marlas (in dispute) which was resulted into three separate sale deeds dated 03.06.2008, 15.01.2009 and 29.01.2009. However, due to inadvertence, khasra No.434 could not be incorporated in the sale deed but the possession was delivered. Mutation No.19646 was sanctioned in favour of the petitioners in respect of the aforementioned khasra number as well.

Surjit Singh, respondent No.5 filed an application that he and his brother have also purchased 2 kanals 1 marla out of 4 kanals 16 marlas comprising of 432, 434 and 437 vide sale deed 19.11.1990 and sought the review of the aforementioned mutation. The Tehsildar recommended

review of the said mutation on the ground of the aforementioned sale deed.

However, the respondent Nos.3 and 4 filed the objections admitting the factum of having sold khasra No.434 but later on, on 06.01.2010 (Annexure P-8) volte-faced by withdrawing the previous objection dated 09.04.2009 (Annexure P-4). The second objection was sought to be rejected which was allowed by the Assistant Collector Grade-I vide order dated 31.03.2010 (Annexure P-12). However, the same in the revision petition has been accepted by the Commissioner and the order of the Commissioner was upheld by the Financial Commissioner.

He further submits that there is a civil suit dated 05.08.2013 seeking specific performance of khasra No.434 to be incorporated in the sale deed pending and in support of his contention, he relies upon judgment of this Court in *Jagtar Singh Vs. State of Punjab 2007(4) PLR 638* and *Shamsher Singh Vs. Commissioner, Patiala Division, Patiala 2011(4) PLR 254*, thus, urges this Court for setting aside the impugned orders.

I have heard learned counsel for the petitioners and appraised the paper book and of the view that there is no force and merit in the submissions of Mr. Bawa, as there were divergent views taken in the judgments rendered by Coordinate Benches of this Court and Division Bench and the matter was referred to the Division Bench in *Jagjit Singh Vs. Divisional Commissioner, Patiala and others 2012 (13) RCR (Civil) 96* and the view given is that the mutation cannot be kept in abeyance even during the pendency of the dispute before the Civil Court, in essence, as and when the party seeking the relief before Civil Court would succeed, the mutation can always be corrected.

Concededly, the khasra No.434 comprising land measuring 1 kanals 19 marals is not reflected in the sale deed. The mutation proceedings

would not confer title as they are only for the fiscal purpose. Since the title has not been passed on to the petitioners and the matter is subjudiced before the Civil Court, I am of the view that the entire proceedings before the Authorities would be a total farcical exercise. The petitioners can always get the mutation corrected, in case they are able to prove the suit, in essence, succeed in the suit which is stated to be pending. In my view, the order under challenge allowing respondent Nos.3 and 4 to change their stand would be inconsequential, however, the observations of mine would not affect the pending objections before the authorities below. The same shall be decided uninfluenced with the finding rendered by this Court.

I do not intend to differ with the orders under challenge, much less, no ground for interference is made out. The writ petition stands dismissed.

(AMIT RAWAL)
JUDGE

January 30, 2017
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No