

CWP No.14046 of 2017

[1]

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

**CWP No.14046 of 2017
Date of decision:04.07.2017**

Gurdial Singh ...Petitioner

Versus

Commissioner, Hisar Division, Hisar and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. R.K.Singla, Advocate,
for the petitioner.

Rakesh Kumar Jain, J. (Oral)

This petition is filed to challenge the order dated 15.05.2012 passed by the Assistant Collector 1st Grade, Tohana, order dated 11.09.2015 passed by the Collector, Hisar, dismissing the appeal of the petitioner and the order dated 09.05.2017 passed by the Commissioner, Hisar Division, Hisar, dismissing the revision of the petitioner.

In short, one Sucha Singh was the owner of some land. It is alleged that after the death of Sucha Singh, one Kehru succeeded to his land to the extent of 176 Kanal 17 Marlas and mutation no.1277 of inheritance was sanctioned in his favour. Kehru executed a registered Will dated 05.06.1971 in favour of the petitioner Gurdial Singh on the basis of which mutation no.1301 was sanctioned in his favour. The land in dispute measuring 06 Kanal 06 Marlas was allegedly left out to be entered in the mutation no.1277 and consequently in mutation no.1301. Respondent no.4 Gurcharan Singh S/o Harnek Singh filed an application to the Halqa Patwari for sanctioning of

mutation of the land in dispute in his favour on the ground of being the adopted son of Sucha Singh on the basis of registered adoption deed. The Halqa Patwari made the entry in the register of mutation at no.2777 and presented it before the Assistant Collector 2nd Grade, Jakhal. Since the petitioner disputed the sanctioning of that mutation, therefore, the Assistant Collector 2nd Grade, Jakhal referred the case to the Assistant Collector 1st Grade, Tohana for decision. Ultimately, the matter was placed before the Assistant Collector 1st Grade, Tohana, who has passed the impugned order dated 15.05.2012, relying upon the registered adoption deed in favour of respondent no.4. Thereafter, the petitioner lost before both the Collector and the Commissioner and, thus, approached this Court by way of the present writ petition to challenge all the aforesaid three orders.

During the course of hearing, counsel for the petitioner has submitted that since respondent no.4 Gurcharan Singh has also filed a civil suit before the Civil Court at Tohana seeking a declaration that he is the adopted son of Sucha Singh and is entitled to succeed his entire property, which is pending adjudication in which it is yet to be decided as to whether respondent no.4 is actually the adopted son of Sucha Singh or not or the registered adoption deed is inadmissible in evidence or it is fake, therefore, the mutation in favour of respondent no.4 may be quashed.

I have heard learned counsel for the petitioner in detail and examined the available record with his able assistance.

Since the mutation proceedings are summary in nature and do not confer or extinguish any title, therefore, at this stage, I do not find any merit in the present petition to set aside the orders passed by the authorities below on

the basis of the registered adoption deed but in order to safeguard the interest of the petitioner, it is ordered that the said mutation, having been sanctioned in favour of respondent no.4, shall be subject to the decision of the civil suit filed by respondent no.4 in the Civil Court at Tohana.

With these observations, the present petition is hereby disposed of.

July 04, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No