

208

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

**CWP-22901-2013 (O&M)
Date of decision : 06.04.2017**

Mahant Ramesh Dass

... Petitioner(s)

Versus

Financial Commissioner, Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Swapan Shaorey, Advocate
for the petitioner(s).

Mr. Yatinder Sharma, Addl. A.G., Punjab.

Mr. Akshay Bhan, Senior Advocate with
Mr. Santosh Sharma, Advocate
for respondent No.5.

Mr. A.P. Kaushal, Advocate
for the applicant in CM-10075-2015.

AMIT RAWAL, J. (ORAL)

The petitioner no longer has any interest, according to the averments made in the application under Order 1 Rule 10 CPC, as on account of some resolution annexed with the application, Mahant Ramesh Dass-petitioner has been removed, for which may have independent cause of action.

The question involved in the present writ petition is with regard to the two mutations bearing No.19690 and 19691 in favour of Inder Dass, which was assailed by Mahant Baldev Dass Chella of Giri Raj Dass, who according to Mr. Akshay Bhan, had died on 24.01.1991, before the Collector, who passed the order in favour of Mahant Baldev Dass. The same was assailed by Mahant Ramesh Dass before the Commissioner and the Financial Commissioner, having failed to succeed, the present writ

petition has been filed.

In view of the *ratio decidendi* culled out by the Division Bench of this Court rendered in '**Jagjit Singh V/s Divisional Commissioner, Patiala and others**' 2012 (13) RCR (Civil) 96, the mutation proceedings cannot be kept in abeyance, even if during the pendency of the civil suit. The mutation does not confer any title except meant for fiscal purpose. Since both the parties are claiming Mahantship of a Dera, on the basis of the some resolutions or other documents, the remedy for the applicant in CM No.10075 of 2015 is to assert and claim the right of declaration regarding Mahantship by leading direct and cogent evident with regard to the congregation of Bhekh etc., but not in the manner and mode, particularly in the proceedings qua mutation, in essence, in such proceedings, this Court in writ jurisdiction cannot decide the controversy.

Resultantly, the application bearing No.10075 of 2015 seeking impleadment of the applicant as necessary parties is hereby disposed of. Liberty is granted to the applicant to avail the remedy in accordance with law in view of the aforementioned observations.

Accordingly, the present writ petition is also disposed of in the aforementioned observation.

06.04.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**