

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

**C.W.P. No.17684 of 2017
Date of Decision:07.09.2017**

**Sher Singh and others Petitioners
Vs.
State of Haryana and others Respondents**

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Anil Kumar Goyat, Advocate for the petitioners.

Rakesh Kumar Jain, J. (Oral)

This petition is filed for seeking a mandamus to direct respondents No.1 to 3 to correct the mutation No.299 sanctioned on the basis of the sale deed dated 05.07.1952 as the name of the predecessor-in-interest of the petitioner, namely, Hira Singh is still mentioned in the column of ownership and cultivation despite the fact that he is no more.

During the course of hearing, counsel for the petitioners has also submitted that Hira Singh had also become owner of the half of the property by adverse possession which was challenged by Bhagwan Dass by filing a civil suit bearing No.195 of 1993 in which it was held by the Civil Court that Hira Singh (defendant) has become the owner by way of adverse possession.

I have heard learned counsel for the petitioners and perused the record. As per the petitioners, Hira Singh purchases half share of the land on 05.07.1952. He informed the Halqa Patwali about the acquisition of his right in land vide sale deed dated 05.07.1952. The Halqa Patwari, in terms of Section 34 of the Punjab Land Revenue Act, 1887 (for short, 'the Act'), made the entry in the Register of Mutation and accordingly mutation

No.299 dated 05.07.1952 was sanctioned in favour of Hira Singh and the mutation entry is reflected in the subsequent jamabandies in which in the column of ownership name of Hira Singh is reflected. The petitioners have submitted that Bhagwan Dass who was the owner of half share of the land had also filed a civil suit No.195 of 1993 titled as Bhagwan Dass v. Hira Singh. The said suit was filed for seeking declaration that he is the owner in possession of the one-half of the land comprising in Khewat No.9 Khatone No.43/1 and 44 measuring 139 kanals 5 marlas. In the said suit, Hira Singh set up the plea of adverse possession on which issue No.8 was struck. The said issue was decided by the Civil Court in favour of the defendant- Hira Singh meaning thereby he was declared to have become the owner by way of adverse possession. The said suit was decided on 06.08.1975. The petitioner has now made an application to the Deputy Commissioner, Mohindergarh for change of mutation in compliance of the judgment and decree dated 06.08.1975. He has alleged that despite the application, no action is being taken.

I have heard learned counsel for the petitioners and after examining the record, am of the considered opinion that there is no merit in this petition for issuing a direction to respondents No.1 to 3, namely, Secretary Revenue, District Collector and Tehsildar Narnaul because as per the scheme of mutation provided under the Act, anybody who acquires the right in the moveable/immovable property has to inform the Halqa Patwari about the same in terms of Section 34 of the Act, thereafter, the Halqa Patwari has to make an entry of the acquisition of such right in the mutation

register. The said application and mutation register is then placed before the Assistant Collector 2nd Grade for his order. At that stage, if somebody objects, entry made in the register of mutation, then the objections are entertained and the said objections are then placed before the Assistant Collector 1st Grade for decision as the said mutation is called the disputed mutation. Thereafter, after hearing the parties, the Assistant Collector 1st Grade passes the order as to whether mutation has to be sanctioned or to be refused. In this case, the authority which the petitioner had to approach is the Halqa Patwari and not respondents No.1 to 3. Consequently, the present petition for the purpose of seeking mandamus against respondents No.1 to 3 is not maintainable. The petitioners are relegated to their remedy under the Statute.

September 07, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No