

CWP No.21903 of 2017 (O&M)

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Manoj Kumar
2017.10.12 15:58
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**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CWP No.21903 of 2017 (O&M)

Date of Order: 09.10.2017

Jarnail Singh

....Petitioner

Versus

Financial Commissioner, Revenue and Ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. G.S. Nagra, Advocate for the petitioner.

RAKESH KUMAR JAIN, J (ORAL)

CM No.14560 of 2017

This application is filed for placing on record additional documents as Annexures P.9 to P.12.

Allowed as prayed for.

Main case

The petitioner was the Lambardar of village Kakkar, Tehsil Ajnala, District Amritsar. He has been removed from his post by the Collector, Amritsar vide order dated 13.8.2013 and his appeal and revision filed against the said order before the Commissioner, Jalandhar Division, Jalandhar and before the Financial Commissioner, Punjab have also been dismissed vide order dated 05.4.2016 and 08.2.2017 respectively.

The allegations against the petitioner are that he had witnessed a sale deed, purported to have been executed by Jaswant Kaur D/o Attar Kaur and wife of Kesar Singh R/o 5 Gobind Nagar, Sultanwind Road, Amritsar, though said Jaswant Kaur was

not present and somebody else had impersonated her. The petitioner has alleged that the person, who had put her thumb impression as Jaswant Kaur, was brought by Palwinder Kaur. It is submitted that Palwinder Kaur is the niece of Jaswant Kaur, who had earlier executed a lease deed in favour of Sukhdev Singh and Harjit Singh on 11.7.2012 not only qua her share but also qua the share of Jaswant Kaur.

It is also submitted that Palwinder Kaur daughter of Smt. Bachittro alias Bachittar Kaur D/o Kesar Singh and widow of late Amrik Singh also entered into an agreement to sell of her own land measuring 5 kanal 15 marla with Sukhdev Singh and Harjit Singh on 11.7.2012. Both the documents i.e lease deed dated 11.7.2012 and the agreement to sell dated 11.7.2012 were witnessed by the petitioner. Thereafter, the impugned sale deed was executed, allegedly by Jaswant Kaur, of land measuring 10 kanal 11 marla i.e 1/7th share out of 73 Kanal and 11 marla to the same person namely Sukhdev Singh. The said sale deed was signed by some lady, who was brought by Palwinder Kaur. The said impersonator put her thumb impression as Jaswant Kaur (vendor) and Harjit Singh son of Palwinder Kaur was one of the witnesses besides the petitioner being another witness to the said sale deed. Smt. Jaswant Kaur made a complaint against the petitioner to the Collector as she was living in the United Kingdom at that time, when the sale deed dated 01.10.2012 was executed in which she was impersonated by a person, who was brought allegedly by her niece Palwinder Kaur and her son.

It is also pertinent to mention here that an application

was filed by the purchaser Sukhdev Singh son of Satnam Singh to the Superintendent of Police, Amritsar Rural, who found the petitioner-Jarnail Singh, lambardar, resident of village Kakkar Kalan, Sukhdev Singh vendee and Lakhwinder Singh resident of Hatempura innocent because they were not knowing Jaswant Kaur personally.

The Collector, however, vide impugned order dated 13.8.2013 held that the Lambardar of the Village was supposed to know Jaswant Kaur and was thus has been found negligent in discharging his duty and was thus removed from the post. Same view has been taken by the Financial Commissioner (Revenue), Punjab by observing that a Lambardar is expected to attest very sensitive documents pertaining to transaction of immovable property and he is also generally expected to be a witness for attestation of wills, both registered and unregistered. As such, a very high responsibility is cast upon him not only regarding the identity of the persons executing such documents but also regarding their very presence. In the instant case, the dismissed Lambardar has abused the trust which has been vested in him under the statutory Rules.

Learned counsel for the petitioner has submitted that the petitioner has been removed, in terms of Section 16(ii)(f), may be on account of being negligent in discharging his duties and in this regard, it is submitted that punishment for being negligent in the performance of duties as Lambardar is provided under Rule 25 of the Punjab and Land Revenue Rules, 1887 (for short "the Rules"). It is, thus, submitted that the punishment imposed upon the

petitioner does not commensurate with the offence committed by him and, therefore, the order of removal should be set aside.

I have heard learned counsel for the petitioner and perused the record.

There is no dispute that the petitioner had been attesting the documents executed by Palwinder Kaur, daughter of Smt. Bachittro alias Bachittar Kaur in the past, may be lease deed in favour of Sukhdev Singh and Harjit Singh or her own agreement to sell with the said persons. Thus the petitioner knew Palwinder Kaur and the vendee as well. The case of the petitioner is that the said Palwinder Kaur had brought another lady, who impersonated as Jaswant Kaur and executed sale deed of the land of Jaswant Kaur measuring 10 kanal 8 marla while Jaswant Kaur was at that time in United Kingdom. Said sale deed was attested as a witness by the petitioner as Lambardar and by the son of Palwinder Kaur.

The Lambardar, who is signing all these documents as a witness is definitely being paid the charges for this purpose. He is not doing the job of attesting witness without charging any expense from the person who was desiring to obtain his services. At the time when Lambardar is appointed, the Appointing Authority also takes into consideration his personal influence and presence in the village so that he would be available to all the villagers for the purpose of serving them.

This Court cannot believe that the petitioner was not aware about the person who had signed the sale deed as Jaswant Kaur because he had been in touch with Palwinder Kaur in the past and had been attesting documents as attesting witness. The report

made by the police that he is not involved cannot be accepted because if he was not aware about the person, who had signed sale deed, then he should not have signed the document without knowing her and even if he was not knowing about the identity of said Jaswant Kaur, then he should have tried to ascertain her identity with help of Voter Card, Aadhar Card etc.

The argument of learned counsel for the petitioner that the only punishment, which is attracted is provided under Section 25 of the Rules cannot be accepted because that punishment is pertaining to some other kind of negligence and for this kind of negligence, which is provided under Rule 16(ii)(f) of the Rules. If these type of persons are allowed to operate as Lambardar, then it would be difficult to save properties of the persons, who are living abroad as there would be more chances for these persons to play in the hands of unscrupulous persons, may be for some personal benefit to execute the document like sale deeds in their absence. Thus to my mind, there is no error on the part of the Collector and subsequent Authorities in removing the present petitioner from the post of Lambardar.

Dismissed.

October 09, 2017
manoj

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No