

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

C.W.P No. 24907 of 2017

Date of Decision:- 02.11.2017

Kashmir Singh & Ors.

....Petitioners

Versus

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Prateek Sodhi, Advocate, for the petitioners.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner has challenged the order dated 05.09.2016 passed by SDM (Civil) by which approval to review the mutation sanctioned by the Assistant Collector, 2nd Grade has been declined.

The petitioners have alleged that they were in possession of the land in question which has allegedly been purchased by respondent No.5 by a registered sale deed. Respondent No.5 made an application to the Halqa Patwari in terms of Section 34 of the Punjab Land Revenue Act, 1887 for making an appropriate entry in the Register maintained by him. On the basis of the acquisition of the said right, by virtue of the sale deed, the Assistant Collector, 2nd Grade sanctioned two mutation Nos. 2922, 2933 of the land in question. The petitioners were not party to the mutation proceedings, therefore, they were not aware of it. As soon as they came to know about the mutation, they filed application under Section 15 of the Act for seeking review of the order dated 14.10.2015 by which mutations were sanctioned. It was alleged by the petitioners that the sale deed are surrounded by suspicious circumstances as these have allegedly been executed by some

impostor as the original owners are no more in this world. Since the Assistant Collector, 2nd Grade was not having the jurisdiction to review his order, therefore, he placed the matter before the Collector i.e. Authority to whom he is subordinate. However, Assistant Collector, 1st Grade vide his impugned order dated 05.09.2016 did not agree with the petitioners and the mutations were not cancelled and the application filed by them was consigned.

Learned counsel for the petitioner submits that as per Section 15(3) of the Act, the order of Assistant Collector, Ist Grade is amenable to appeal and is thus being challenged in the present appeal. It is submitted that the petitioners had filed five civil suits basically for permanent injunction as they were apprehending that respondent No. 5 may not in the garb of the sale deed dispossess them forcibly. They did not seek declaration that they are owner in possession of the property in question and only pleaded that they are in possession. Therefore, the Civil Court framed the issue only to the effect as to whether they are entitled to the decree of permanent injunction as prayed. It seems that out of five civil suits three have been decreed in favour of the petitioners and directions have been issued to respondent No.5 not to dispossess them forcibly except in due course of law. Thus, in a way the possession of the petitioners have been secured by the Civil Court. The petitioners are otherwise aggrieved against the sanction of mutation in favour of respondent No.5 on the basis of sale deeds on the ground that these sale deeds are not genuine.

The allegations made by the petitioners about the genuineness of the sale deeds cannot be decided in the summary proceedings carried out

in terms of Section 34 of the Act as the mutations are sanctioned on the basis of acquisition of right in the property. In case somebody has a dispute about acquisition of right, the procedure is provided under Section 36 of the Act, which has not been followed by the petitioners for the reasons best known to them. In any case the sale deed in favour of respondent No.5 would prevail for all intents and purposes until and unless it is set aside by the Civil Court. The said sale deeds have not yet been challenged, therefore, the only course open to the petitioners to first challenge the sale deeds for the purpose of avoiding mutation.

Thus, I do not find any merit in the present petition.

Dismissed.

November 02, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No