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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 28.03.2017

1.

CWP-5311-2016

Gurbax Singh and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

2.

CWP-5443-2016

Gurbax Singh and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. Amandeep Soni, Advocate
for the petitioner(s) in both the cases.

Mr. T.N. Sarup, Addl. A.G., Punjab.

Mr. Sukhjit Singh, Advocate
for respondent No.5 in both the cases.

AMIT RAWAL, J. (ORAL)

This order of mine shall dispose of two writ petitions bearing
CWP No.5311 of 2016 titled as **“Gurbax Singh and others V/s State of
Punjab and others”** and **CWP No.5443 of 2016** titled as **“Gurbax Singh
and others V/s State of Punjab and others”**.

The petitioner(s) are aggrieved of the impugned order 23.07.2015 (Annexure P-6), whereby the Financial Commissioner, Punjab has dismissed the revision petition filed by the petitioner(s) against the order dated 21.02.2014 (Annexure P-5) of the Commissioner, who dismissed the appeal of the petitioner(s) filed against the order dated 10.09.2010 (Annexure P-3) of the Collector allowing the appeal of the respondent(s) by remanding back the matter to the Assistant Collector 2nd Grade, Fatehgarh Churian.

Learned counsel for the petitioner(s) submits that the mutation involved in both the cases was sanctioned by the Assistant Collector 2nd Grade, Fatehgarh Churian vide order dated 30.10.2008 on the basis of the family settlement. However, respondent No.5, after expiry of the period of limitation, assailed the order by filing an appeal before the Collector, which was allowed and the matter was remanded back to the Assistant Collector, 2nd Grade, Fatehgarh Churian. Against the said order, an appeal was filed before the Commissioner, but the same was dismissed. The revision filed before the Financial Commissioner against the order of the Commissioner also met with the same fate.

She further submits that the remedy, if any, for respondent No.5 was to file a civil suit as per the provisions of Section 45 of the Punjab Land Revenue Act, thus, impugned orders are not sustainable in the eyes of law being opaque and arbitrary, and urges this Court for setting aside the same.

Per contra, Mr. Sukhjit Singh, learned counsel appearing on behalf of the private respondent No.5 submits that respondent No.5 is not the signatory of the alleged family settlement nor the same is registered. If

the right is given for the first time, it requires a registration, therefore, could not have been looked into by the revenue authorities. If at all, the petitioner(s) were aggrieved, they could have gone to the civil court, thus, the impugned order of the Collector upheld by the Commissioner and Financial Commissioner, is perfectly legal and justified and does not call for interference.

I have heard the learned counsel for the parties and appraised the paper book.

It is a settled law that the mutation proceedings cannot be kept in abeyance in view of the *ratio decidendi* culled out by the Division Bench of this Court rendered in **“Jagjit Singh vs. Divisional Commissioner Patiala and others” 2012 (13) RCR (Civil) 96** and whatever would be the outcome of the civil suit, ultimately whosoever succeeds in the civil suit, will be entitled to seek the sanction of the mutation, as it does not confer the tittle particularly when there is a dispute with regard to the same being only for the fiscal purpose. The revenue authorities are bound by the decision of the Civil Court. The remedy, if any, for respondent No.5 was/is to file a civil suit as per the provisions of Section 45 of the Punjab Land Revenue Act. This aspect had not been taken care by the authorities in the impugned orders under challenge. In view of the settled law, the order of the Collector remanding back the matter to the Assistant Collector, 2nd Grade, would be a farcical exercise.

Keeping in view the aforementioned facts, the impugned orders, under challenge, are hereby set aside. Liberty is granted to respondent No.5 to avail the remedy of civil suit under Section 45 of the

Punjab Land Revenue Act, seeking correction by raising all possible pleas permissible in law.

Both the writ petitions are disposed of, in the aforementioned observations.

28.03.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes**

Whether Reportable **No**