

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

CWP No.8838 of 2017

Date of Decision.28.04.2017

Surinder Singh and others

.....Petitioners

Vs

The Financial Commissioner (Revenue), Punjab and others

.....Respondents

Present: Mr. Sarju Puri, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J.(ORAL)

The grievance of the petitioner in the present writ petition is against the order of the Commissioner and the Financial Commissioner whereby the order of the Collector remanding the matter back to the Assistant Collector in respect of mutation bearing No.3024 on the premise that petitioners are the vendors of the property in dispute on the basis of a sale deed dated 02.08.1979, has been set aside.

The contention of Mr. Sarju Puri, learned counsel appearing on behalf of the petitioner is that the erstwhile vendor of the petitioner had again sold the land by virtue of sale deed dated 11.09.2008 (Annexure P-7). However, it is only to the aforementioned sale deed, a litigation in suit had reached to this Court vide RSA No.2245 of 1983 which on the basis of compromise between Malkeet Singh and other persons was disposed of vide order dated 29.01.2008 (Annexure P-6). However, the 2nd sale deed dated 11.09.2008 (Annexure P-7) was challenged by the petitioner but ultimately, he had been very fair to this Court in informing that the aforementioned civil suit claiming declaration on the basis of sale deed has been dismissed

and appeal is pending disposal against the 1st Appellate Court.

He further submits that the order of the Collector was most innocuous and therefore, could not have been interfered by the Commissioner and Financial Commissioner.

I have heard learned counsel for the petitioners and appraised the paper book. The orders of the Commissioner and the Financial Commissioner are indicative of the fact that mutation would be seen only in pursuance of the judgment rendered by the Civil Court. Concededly, at the moment, though the civil suit has been decided but the appeal is pending. The mutation in view of the ratio decidendi culled out from the judgment of Division Bench of this Court in **Jagjit Singh Vs. Divisional Commissioner Patiala and others 2012(13) RCR (Civil) 96** cannot be kept in abeyance. It is only meant for fiscal purpose as it would not confer any right or title.

In view of the aforementioned position of law, the petitioners would be at liberty to seek correction of mutation in his favour on the basis of title, in case they succeed in appeal and the 1st Appellate Court, which seized of the matter, shall decide the matter independently and without prejudice to the findings rendered by the Revenue Court or the Civil Court.

With the aforementioned observations, the writ petition is disposed of. In case, the petitioner succeeds, he will be entitled to move an application for correction of the mutation.

(AMIT RAWAL)
JUDGE

April 28, 2017
Pankaj*

Whether speaking/reasoned Yes

Whether reportable No