

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

**CWP No.9805 of 2017
Date of decision:30.05.2017**

Major Singh (deceased) through LRs ... Petitioner

Vs.

Financial Commissioner, Punjab and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Sarabjit Singh Sidhu, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner is the son of Gurdial Singh, who died on 27.11.2004 claiming succession of his estate by virtue of registered Will dated 15.09.1999.

The grievance of Mr. Sarabjit Singh Sidhu, Advocate for the petitioners is that revenue authorities had ordered for the succession in favour of all the four sons and Bhupinder Kaur widow of pre-deceased son Shamsher Singh. The registered Will dated 15.09.1999 by virtue of which Gurdial Singh bequeathed his share in favour of four sons only, therefore, daughter, much less widow of predeceased son Shamsher Singh would not have any right and all these factors have been ignored by the authorities below and therefore, the orders of the Collector, Commissioner and the Financial Commissioner are liable to be set aside and that of the Assistant Collector Grade I, is liable to be restored.

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

It is settled law that mutation cannot be kept in abeyance in view of the judgment rendered by the Hon'ble Division Bench of this Court in **Jagjit Singh vs. Divisional Commissioner Patiala and others 2012 (13) RCR Civil 96**. The mutation does not confer any title and it is only for fiscal purposes. It is only when one of the parties asserting his right and other party is disputing, remedy for either of the parties, who is in hurry is before the Civil Court and can claim declaration and title on the basis of the registered Will on preponderance of evidence, much less by proving the registered Will.

In my view, remedy for the petitioners is before the Civil Court to claim declaration and in case, they succeed in civil suit, natural ancillary is for the revenue Court for ordering the mutation.

With the aforementioned observations, the writ petition stands disposed of.

(AMIT RAWAL)
JUDGE

May 30, 2017
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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No