

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

**CWP No.18907 of 2018
Date of Decision:13.09.2018**

Manjinder Kaur ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Harchand Singh Batth, Advocate
for the petitioner.

G.S. SANDHAWALIA, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India challenging the orders dated 31.03.2011 (Annexure P-6), 19.12.2014 (Annexure P-8), 15.03.2017 (Annexure P-10) whereby the prayer for mutation of the land in dispute on the basis of sale deed dated 21.08.2003 (Annexure P-2) for land measuring 8 kanals has been rejected by the revenue authorities.

The primary ground which weighed with the Collector, Amritsar while allowing the appeal of respondent No.5 vide order dated 31.03.2011 (Annexure P-6) was that the alleged sale deed had been executed by the attorney Piar Kaur in favour of Kulwant Singh, husband of the present petitioner. It was noticed that Piar Kaur was only the attorney of her son Sawinder Singh who had already died on 10.04.1993, seven years earlier whereas the power of attorney was executed on 09.02.2000. In such circumstances, the mutation No.3881 sanctioned on

the basis of sale deed, was set aside with liberty to the parties to approach the Civil Court. The said order in principle had been upheld by the Commissioner, Jalandhar Division, Jalandhar on 19.12.2014 (Annexure P-8) and by the Financial Commissioner, Punjab vide order dated 15.03.2017 (Annexure P-10).

The counsel for the petitioner has vehemently submitted that on the basis of registered documents the petitioner was entitled for the benefit of the mutation.

There is no dispute qua the proposition as such that on the basis of the registered sale deed the petitioner would have been entitled for the said benefit. However, once there is an issue as to whether the sale deed could have been executed on account of fact that the principal himself had died and the attorney had no power to alienate as the power delegated also evaporated with the death of Sawinder Singh. Thus disputed questions of fact arise including fraud at the hands of the private respondent and whether the private respondent was the one who had actually executed the sale deed. The issue of petitioner being *bona fide* purchaser and entitled to the benefit of the title irrespective of the death of Sawinder Singh, if the sale deed was executed by the mother would arise. These questions are got to be decided before the Civil Court after leading evidence on material facts.

It is trite law that the Writ Court is not to enter into the thicket of disputed facts and therefore, in such circumstances, the jurisdiction which has been exercised by the Collector, Amritsar *ex facie* on the face of it does not seem to suffer from any illegality or irregularity which would warrant interference in the extraordinary writ

jurisdiction under Articles 226/227 of the Constitution of India.

Resultantly, in view of the above discussion, the present writ petition is dismissed in limine. However, liberty is granted to the petitioner to seek her legal remedy before the Civil Court, if so desired.

13.09.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No