IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.19072 of 2018 (O&M)
Date of Decision:24.09.2018

(1)
Manohar Singh ...Petitioner

Versus

Financial Commissioner (Revenue) Punjab and others ...Respondents

And

(2) **CWP No.19170 of 2018 (O&M)**
Date of Decision:24.09.2018

Manohar Singh ...Petitioner

Versus

Financial Commissioner (Revenue) Punjab and others ...Respondents

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

Present: Mr. V.K. Sandhir, Advocate
for the petitioner.

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G.S. SANDHAWALIA, J. (ORAL)

Applications for exemption and placing on record

Applications for exemption and for placing on record the certified copies of transfer deeds dated 23.10.2003 (Annexure P-10) are allowed subject to all just exceptions.

CMs stand allowed.

Main cases:

The present order shall dispose of CWP Nos.19072 and

19170 of 2018. The facts have been taken from CWP No.19072 of 2018 as common questions of law and facts are involved.

The present writ petitions have been filed under Articles 226/227 of the Constitution of India challenging the order dated 27.12.2016 (Annexure P-7) passed by the Commissioner, Jalandhar Division, Jalandhar and the order dated 16.05.2018 (Annexure P-9) passed by the Financial Commissioner (Revenue) Punjab whereby the matter has been remanded to the authorities below to examine whether any land is reflected in the name of deceased Ranjit Singh in the present jamabandis and whether the land relates to the land covered in the transfer deeds (Annexure P-10) and if so being registered documents, the same be given effect to. The fact that the matter was pending before the Civil Court was also highlighted by the Financial Commissioner and that the final decision was subject to the said civil litigation and an entry to this effect was to be made in the remarks column of jamabandi relating to said khasra number.

Counsel for the petitioner vehemently argued that the dispute is *inter se* with the brothers, private respondents Harbhajan Singh and Gursharan Singh. The inheritance of the property is from their father Ranjit Singh, who had expired on 24.12.2004 leaving behind a registered Will dated 19.04.1988 (Annexure P-1). It is further submitted that on the basis of the said Will, mutation No.3472 was entered into for the entire property as such. The subsequent claim for entry vide mutation No.3474 and 3475 is on the basis of two registered transfer deeds dated 23.10.2003 (Annexure P-3) and the mutations entered on 16.03.2005, were not justified and had been rightly set aside by the Assistant

Collector on 26.09.2011 (Annexure P-3) and upheld by the District Collector, Amritsar on 22.11.2012 (Annexure P-5).

It is submitted that once all the three sons had appeared before the revenue authorities and got the mutation sanctioned on the basis of the registered Will dated 19.04.1988, the subsequent transfer deeds propounded on 23.10.2003 (Annexure P-10) in both the cases would cast a shadow of doubt qua their existence and whether they are genuine documents and both Harbhajan Singh and Gursharan Singh would have also relied upon them when the earlier mutation No.3472 was being entered into. It was further submitted that Ranjit Singh had also mortgaged the land in question which was subject matter of the transfer deeds during his life time, and therefore, the same was not possible if he had transferred the land to the private respondent.

It is not disputed that petitioner himself has filed civil suit challenging those transfer deeds which the Financial Commissioner has kept in mind. At the end of the day, the findings of the civil Courts would be binding upon the revenue authorities. If the civil Court comes to the findings that the transfer deeds projected by private respondents are not genuine, the revenue authorities will have to give necessary effect to the same. The Financial Commissioner at present has only remanded the issue as the authorities below have not discussed the transfer deeds in relation to the details of the land, which was subject matter of the transfer deeds and it has been found that the some land still continues to remain in the name of the deceased-Ranjit Singh in the revenue record and it was on this account the matter has been remanded.

In such circumstances, the orders passed by the

Commissioner and Financial Commissioner do not suffer from any infirmity which would warrant interference by this Court while exercising the extraordinary writ jurisdiction. The petitioner has been amply protected as the earlier mutation No.3472 continues to hold the field as per the impugned order.

Accordingly, in view of the above the present writ petitions are dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

24.09.2018
pvd

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