

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

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**CWP-22297-2018 (O&M)
Date of decision: 26.10.2018**

Manavjeet Kaur & another

....Petitioners

Versus

Tehsildar-cum-Assistant Collector Grade-II & others

...Respondents

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

Present: Mr.G.S.Punia, Sr.Advocate
with Mr.Harminder Singh, Advocate, for the petitioners.

G.S. SANDHAWALIA, J. (Oral)

CM-14941-42-CWP-2018

Application for placing on record judgment and decree dated 07.03.2017 as Annexure P-6 and for exemption from filing certified/typed copy of the same, are allowed, in view of the averments made in the application, duly supported by affidavit. Same is taken on record, subject to just exceptions. Office to tag the same at appropriate place.

CMs stand disposed of.

CWP-22297-2018

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of prohibition, prohibiting the Tehsildar-cum-Assistant Collector Grade-II, Batala, District Gurdaspur, from proceedings with the application for correction of khasra girdawari filed by respondent No.2, during the pendency of the civil proceedings. Similarly, writ in the nature of mandamus is sought, directing respondent No.1 to decide the issue raised in reply dated 06.11.2017 (Annexure P-5).

A perusal of the paperbook would go on to show that respondent No.2 had filed an application for correction of the khasra girdawari, from Khariff 2009 to Khariff 2012, of the land situated at Village Batala Sharki, District Gurdaspur, details of which are given in the heading of the said application. The spot inspection was also made but the objections by the petitioners were that they had filed a Civil Suit and since the stay order had been passed on 10.11.2010, the objections were sustained by the Tehsildar-cum-Assistant Collector on 28.01.2014. In the appeal filed by respondent No.2, the matter was remanded to the Collector, who also adjourned the appeal *sine die* on 16.09.2014 (Annexure P-2), till further orders by the Civil Court.

It is not disputed that the Civil Court, thereafter, decided the suit for permanent injunction on 07.03.2017 (Annexure P-6), which had been filed by Gurbachan Kaur, the predecessor-in-interest of the present petitioners and it was against Ramesh Kumar @ Mechhi and one Puran Chand. The defence of defendant No.1 was that he was a Mohatmim in the Dargah and had resisted the suit, which eventually had been dismissed, as noticed above. Resultantly, an application was filed for reopening the case by respondent No.2-Dargah Hajrat Budhushah through Meshi Shah Chisti Farid and an order was passed on 31.10.2017 (Annexure P-4) that the parties should come present and submit their stand. The petitioners, thereafter, filed an application dated 06.11.2017 that since the appeal was pending in the Civil Court, the Court should not initiate any further proceedings. It is, in such circumstances, the present

writ petition has been filed.

The present writ petition is pre-mature, as such and is not liable to be entertained, in as much as, the matter is yet to be adjudicated upon by the authorities and they have only called upon the petitioners, as such, to submit their reply and a decision is to be taken regarding the correction of khasra girdawari. The argument raised that the appeal was pending before the Collector, is also to be noticed and rejected. The appeal had only been *adjourned sine die*, for decision of the Civil Suit and once the Civil Court had decided the issue, the same has become infructuous. It is for the revenue authorities to proceed ahead and incorporate the relevant facts in the revenue records. The revenue records cannot be kept in abeyance and the Civil Court's findings are binding upon the revenue authorities. As noticed above also, the suit also pertains to Mechhi, in his personal capacity and not to respondent No.2 and therefore, no case, as such, is made out by the petitioners, as such, that the authorities should be prohibited to proceed ahead for the correction of the khasra girdawari. It is always open to the petitioners to file reply and take the defence in accordance with law.

Accordingly, in view of the above discussion, finding no merit in the present writ petition, same is hereby dismissed in limine.

26.10.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No