

CWP-24255-2018

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-24255-2018

Date of Decision: 21st September, 2018

Jaswinder Singh

...Petitioner

Versus

State of Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASI

Present: Mr. Hitesh Verma, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASI, J. (ORAL)

Petitioner has approached this Court alleging violation of Rule 80 of the Punjab Cooperative Societies Rule, 1963 (hereinafter referred to as '1963 Rules') as also assailing the order dated 01.05.2018 (Annexure P-2) passed by the Deputy Registrar, Cooperative Societies, Barnala, whereby, in the appeal preferred by respondent No.5-Mohinder Singh, against the order dated 10.11.2017 passed by the Assistant Registrar, Cooperative Societies, Barnala, has been set aside.

It is the contention of the learned counsel for the petitioner that the Deputy Registrar, Cooperative Societies, Barnala, has not dealt with the findings with regard to the violation of the provisions of Section 80 of 1963 Rules, according to which, 15 days' prior notice was required to be issued. He contends that the resolution dated 31.03.2017 passed by the Managing Committee of the Barnala Scheduled Caste Land Owning Society Ltd., Barnala-respondent No.4, vide which, petitioner was appointed as a

nominee by his grand-father, namely, Shri Jagan Singh son of Santa Singh has been annulled and it has been passed by the Society that Mohinder Singh (Manga) son of Jagan Singh, who is father of the petitioner, is appointed as heir of Jagan Singh. This entry has been entered in the Membership Register at Sr. No.6. The said resolution of the Society dated 31.03.2017 is not in consonance with Rule 80 of 1963 Rules and therefore, cannot be acted upon. That apart, he contends that the Assistant Registrar, Cooperative Societies, Barnala, has categorically held in its order dated 17.11.2017 that the Will which is alleged to have been executed in favour of Mohinder Singh-respondent No.5 is not a genuine Will and therefore, cannot be acted upon. On these basis, counsel contends that the order passed by the Deputy Registrar, Cooperative Societies, Barnala, dated 01.05.2018 (Annexure P-2) cannot sustain and deserves to be set aside.

I have considered the submissions made by the learned counsel for the petitioner and with his assistance have gone through the impugned order as well as records of the case.

As is apparent from the provisions of Rules, the mandate with regard to the violation of Section 80 has been not disturbed with regard to the said aspect and the Assistant Registrar, Cooperative Societies, Barnala, has *suo motu* come to a conclusion in this regard without there being factual assertion made in this regard. Therefore, the said finding of the Assistant Registrar, Cooperative Societies, Barnala, cannot be accepted.

As regards the the validity of the Will and the genuineness thereof, it has been clearly observed and it is not in dispute that till date, the

CWP-24255-2018

said Will in favour of Mohinder Singh-respondent No.5 has not been challenged by anyone in any Competent Court with regard to it being a fraud or the Will being not genuine. The observation, therefore, as made by the Deputy Registrar in its order dated 01.05.2018 (Annexure P-2) does not call for any interference by this Court as the said Will is registered one.

The writ petition being devoid of merit stands dismissed.

At this stage, learned counsel for the petitioner states that the petitioner intends to challenge the validity of the Will. Nothing has been observed by this Court with regard to the validity or otherwise of the Will. He, if so advised, may avail of his remedy in accordance with law as permissible.

(AUGUSTINE GEORGE MASIH)
JUDGE

21st September, 2018
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No