

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 6843 of 2018 (O & M)

Date of decision: 08.08.2018

Ram Lal

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. S.S. Sahu, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

The present writ petition is directed against the orders passed by the Revenue Courts whereby, mutation no. 4707 has been sanctioned in favour of the private respondent no. 5, Sita Ram on the basis of the judgment dated 14.02.1991 (Annexure P-5). The main objection of the petitioner that it was time barred and, therefore, it should not have been done was over ruled by the Assistant Collector Ist Grade. The District Collector and the Commissioner have concurrently upheld the order on 07.03.2017 and 01.08.2017.

Counsel for the petitioner has vehemently submitted that the Civil Court decree as such was in favour of Murti Devi with the petitioner and it was a consent decree wherein, certain land was sought to be exchanged and, therefore, the respondent Sita Ram was not entitled for the benefits.

A perusal of the order of the District Collector would go on to show that the reference was made to a Civil Court order dated 25.10.2006 and the final decree dated 05.06.2010 in which, it had been noticed that the

judgment and decree dated 14.02.1991 had been acted upon and the said half share of 4 kanals 4 marlas had been partitioned between Murti Devi and Sita Ram by the Civil Court.

A perusal of order dated 05.06.2010 (Annexure P-6) would go on to show that Sita Ram-respondent no. 5 had filed a civil suit for possession by way of partition against Murti Devi and the present petitioner was also arrayed as defendant no. 5. The preliminary decree had been passed by the Civil Court earlier which had not been appealed against by Murti Devi and others and the appeal filed by the present petitioner had been dismissed by the Additional District Judge, Fatehabad on 13.02.2008 wherein, it had been held that Sita Ram was entitled to claim half share in the land in question. Resultantly, the objections before the Civil Court were also dismissed that the petitioner has no cause of action or locus standi to raise any objection against the mode of partition. It has also been noticed that there were four rooms in existence at the time of passing of the preliminary decree, on which account, the said respondent approached the Civil Court.

In such circumstances, once the petitioner had consented to the decree and filed a written statement admitting the claim of Murti Devi and the suit had been decreed in 1991, he has no locus standi as such to object to the mutation proceedings which are now being conducted. The argument raised that he never got possession of the land which had been exchanged with Murti Devi does not cut much ice with this Court since that is the grouse of the petitioner with Murti Devi and the private respondents' rights for getting the entries in the revenue record cannot be denied in any manner. The locus standi of the petitioner, thus, not being there as he had lost his

title way back in 1991 has rightly been noticed by the Revenue Courts. The objection of being time barred entry also does not arise in view of the judgment in *Mehar Singh vs. State of Punjab, 2010 (24) RCR (Civil) 113* that a declaratory decree of a Civil Court cannot be refused on the ground of delay by a revenue officer and he cannot refuse to enter a mutation where possessory rights have been set at rest.

Accordingly, this Court does not feel the necessity to exercise its extra ordinary writ jurisdiction to interfere in the impugned order and the present writ petition is accordingly dismissed in limine.

08.08.2018
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No