

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

LPA No. 1493 of 2017 (O&M)

Date of Decision: 16.07.2018

Amar Singh

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.....Appellant

versus

Financial Commissioner, Revenue, Punjab and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mrs. Anupam Bhanot, Advocate, for the appellant.

KRISHNA MURARI, C.J. (oral)

CM Nos. 3179 and 3180-LPA of 2017

Allowed subject to all just exceptions.

LPA No. 1493 of 2017 (O&M)

This intra court appeal under clause X of the Letters Patent is directed against the order and judgment dated 24.07.2017 passed by the learned Single Judge.

The facts in brief are that the petitioner-appellant claimed mutation over the property of one Parduman Singh who was bachelor on the basis of an unregistered will. The mutation proceedings were contested by the private respondents. The Assistant Collector did not accept the Will set up by the appellant and accordingly directed mutation of the property in question in favour of one Jeetu, mother of the private respondents, who was sister of the deceased. In appeal, the Collector reversed the order of the Assistant Collector finding that the private respondents have failed to prove as to how their mother Jeetu was related to the deceased Parduman Singh. The matter went again in appeal before the Divisional Commissioner who also dismissed the same. However, the Financial Commissioner set-aside the orders passed by the Commissioner as well as the Collector.

The learned Single Judge on being approached by means of a writ petition found that the petitioner-appellant had filed a civil suit on the basis of an unregistered Will which was dismissed and the claim of the petitioner-appellant was also dismissed by the Financial Commissioner on the said ground.

Admittedly, the petitioner-appellant was claiming his rights on the basis of an unregistered Will and not on the basis of any right of inheritance and thus it was imperative upon him to have the legitimacy and validity of the said Will proved. Once the petitioner has failed to prove the validity and legitimacy of the will in civil proceedings and was not claiming any right on the basis of inheritance, we find absolutely no illegality in the judgment of the Financial Commissioner as affirmed by the learned Single Judge of this Court that the name of the petitioner-appellant is not liable to be mutated over the property.

At this stage, learned counsel for the appellant submits that an appeal against the decree dismissing the civil suit on the basis of the Will is pending. Be that as it may when the said matter is finally adjudicated, the consequences will follow and the revenue record will be mutated accordingly. The mutation proceedings being summary in nature will have no effect on the said proceedings. We do not find any illegality in the said order passed by the learned Single Judge. The appeal is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

16.07.2018

ravinder

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