

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

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Civil Writ Petition No.17864 of 2019

Date of Decision: July 5th, 2019

Malhara Singh and others

...Petitioners

Versus

Principal Home Secretary cum Commissioner (Revenue), U.T. Chandigarh
and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep K. Sharma, Advocate
for the petitioners.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioners have challenged the order dated 30.04.2008 (Annexure P-9) passed by the Assistant Collector Ist Grade, U.T. Chandigarh, whereby Mutation Nos.3136 and 3138 were sanctioned in favour of private respondents No.2 and 3 and Mutation No.3141 was sanctioned in favour of respondents No.4 and 5, who had purchased some of the portion of the estate of original owner Shri Ram Ditta, who according to the private respondents is civil dead as his whereabouts are not known for long and there is a Will executed by Smt. Ralli sister of Ram Ditta, who is the only surviving legal heir, in favour of respondents No.2 and 3, order dated 14.09.2018 (Annexure P-10) passed by the Deputy Commissioner-cum-Collector, U.T. Chandigarh and the order dated 31.01.2019 (Annexure P-12) passed by the Principal Home Secretary-cum-Commissioner (Revenue), U.T. Chandigarh, upholding the original order.

2. It is the contention of learned counsel for the petitioners that respondents 2 and 3 have failed in the suit for declaration which they had preferred claiming themselves to be the owners of the land which is the subject matter of the writ petition which suit was dismissed for want of

prosecution. Even the separate suits, which have been filed by them, were dismissed in the light of the dismissal of the earlier civil suit for non-prosecution under the provisions of Order IX Rule 8 of CPC. His submission is that the suit, which was initially preferred jointly, has attained finality as the appeal preferred by them stood also dismissed. He, thus, contends that after the failure in the declaration suit which has been preferred by these respondents 2 and 3, no mutation could have been sanctioned in their favour for the same land for which they had filed the civil suit for such declaration. He, thus, contends that the impugned mutations which have been sanctioned by the Sub Divisional Magistrate-cum-Assistant Collector Ist Grade, U.T. Chandigarh and the subsequent orders which have been passed by the appellate and the revisional authority cannot sustain as this crucial aspect has been ignored by the said authorities.

3. I have considered the submissions made by learned counsel for the petitioners but do not find myself in agreement with said contention in the light of very fair stand taken by the counsel for the petitioners that they are not successors-in-interest of the original landowner Shri Ram Ditta nor are they successors of Smt. Ralli, who had registered a Will in favour of respondents 2 and 3.

4. In view of the above fact, since the petitioners have no right to the property as such in the light of the fact that they are not related to the above referred to two persons i.e. Shri Ram Ditta and Smt. Ralli, whereas respondents 2 and 3 not only are related to Smt. Ralli and her successors, have a Will in their favour and thus, were admittedly the interested persons in the property, the orders as passed by the authorities which have been impugned by the petitioners, cannot be faulted with. Even the equity would

require non-interference by this Court in exercise of its extraordinary writ jurisdiction.

5. The writ petition, therefore, stands dismissed.

July 5th, 2019
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No