

CWP-19976-2019

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-19976-2019

Date of Decision: 23rd July, 2019

Jagdish Kaur @ Surjit Kaur

...Petitioner

Versus

The Financial Commissioner (Appeals) Punjab & others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Jasmail Singh Brar, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 21.02.2019 (Annexure P-5), 20.08.2015 (Annexure P-4), 22.01.2014 (Annexure P-3) and 22.11.2012 (Annexure P-2) and 23.09.2011 (Annexures P-1) passed by respondents No.1 to 5 respectively, vide which, mutation No.4653 of inheritance of Ram Singh has been sanctioned on the basis of natural succession in favour of Mohar Singh – respondent No.6 and Jagdish Kaur – petitioner herein.

2. This order of mutation has been challenged on the ground that there is a registered Will dated 20.11.1998 executed by her father Ram Singh in her favour, which has not been taken into consideration by the authorities and merely because, there is a delay in presentation of the same, the Will has been said to be suspicious and thus, not acted upon.

3. It is the contention of the learned counsel for the petitioner that although the petitioner has been relegated to the remedy of filing the civil suit, the same is cumbersome and time consuming process, which would not serve the purpose. Reliance has also been placed upon Section 39 of the Punjab Land Revenue Act, 1887 (hereinafter referred to as 'Act'), according to which, if any person is negligent to report as required under Section 34 of the said Act beyond a period of three months from the date of acquisition of a right, it is the discretion of the Collector to imposed a fine not exceeding five times of the amount of the fee which would have been payable. He contends that the claim of the petitioner on the basis of the registered Will could not have been, therefore, brushed aside. His further assertion is that the registered Will dated 14.07.2011, which has been produced by her brother Mohar Singh – respondent No.6 while getting sanctioned the mutation in his favour, which was executed on 19.02.2000 allegedly by their father Ram Singh and the registration thereof after a period of eight years from the date of death of Ram Singh i.e. 07.02.2003 could not be made the basis for relegating the parties to Civil Court. He, thus, contends that the orders as passed by the revenue authorities cannot sustain and deserve to be set aside.

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

5. This is a case where there is not one registered Will rather

there are two, each person disputing the authenticity of the Will at the hand of the other. The Will, on which reliance has been placed by the petitioner, is dated 20.11.1998, which is in her favour as executed by Ram Singh, whereas, the Will which has been executed in favour of Mohar Singh is dated 19.02.2000, which was got registered on 14.07.2011. Both these documents are registered and therefore, it cannot be said that one can have precedence over the other, unless the same is properly proved and finding recorded in this regard. Although the parties have put forth their evidence in support of their respective Wills but the Competent Authority has not come to a conclusive satisfaction with regard to the authenticity or otherwise of these Wills. The period which has been elapsed both in the case of presentation of the Will by the petitioner as also the registration of the unregistered Will, which was executed in favour of respondent No.6 has rightly been taken into consideration to treat them with suspicion. The conclusion, therefore, as drawn by the revenue authorities appears to be fully justified as both the parties have approached the Competent Authority after an inordinate delay.

6. As regards the provision of Section 39 of the Act is concerned, the same could not be of much difference as far as the petitioner is concerned in the light of the fact there are two registered Wills which have been brought by both the parties and none of the Wills has been discarded by the revenue authorities except for concluding that

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there is a suspicion with regard to the authenticity of both the Wills, for which, the conclusion that the matter should be decided by the Civil Court, cannot be said to be without any basis. The conclusion that there are intricate questions of facts and laws which are to be gone into by the Civil Court, cannot be faulted with.

7. In view of the above, finding no merit in the present writ petition, the same stands dismissed.

23rd July, 2019
Harish

(AUGUSTINE GEORGE MASIH)
JUDGE

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