

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

CWP No. 3244 of 2021

DATE OF DECISION : 09.03.2021

Hurri

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

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

Ms. Mamta Talwar, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Grievance of the petitioner herein is qua remanding of the matter for fresh consideration by the Assistant Collector, Ist Grade and to decide the mutation entries in the revenue record qua property of the deceased namely late Bhullu. While remanding the matter, learned Collector vide impugned order dated 08.02.2012 (Annexure P-2) recorded following reasons for doing so:

“After hearing the arguments of the counsel of appellants and perused the original record of the lower court and thereafter it was found that neither Bhullu’s death certificate is available on file nor the evidence has been led to prove the will. Therefore, I remand the case to Assistant Collector Ist Grade, Hathin with direction to evidence of both the parties be taken on record and opportunity of hearing be given to both the parties and thereafter the case be decided on merits and parties are directed to appear on 22.02.2012 in the court of Assistant Collector Ist grade Hathin.”

2. An appeal filed against the above order of the Collector before the Commissioner was decided against the petitioner and the same was also

dismissed and so was the fate in the revision petition preferred by him before learned Financial Commissioner.

3. Having perused the reasoned order passed by learned Collector, I also do not find any ground to interfere.

4. Learned counsel for the petitioner strenuously argues that in view of the findings recorded by the Assistant Collector based on the evidence adduced by the parties, the superior authorities could not remand the matter by observing that same be decided afresh after recording evidence of the parties.

5. Learned counsel for the petitioner in support of his arguments relies on judgments passed by this Court in case titled as “*Deen Mohammad Vs. Reshmi and others*” reported as *2015(4) R.C.R. (Civil) 238* and “*Taj Mohammad Vs. Alyas (Minor)*” reported as *1997(2) HLR 96*.

6. Be that as it may, learned counsel for the petitioner does not controvert that the parties are also at lis before the Civil Court vide a civil suit instituted seeking declaration by the respondents that they be declared collateral heirs of the deceased father of the petitioner and accordingly property be mutated in their favour.

7. On a query of the Court, learned counsel also apprises that the learned Trial Court has specifically dismissed an injunction application filed by the private respondents whereby they have sought a restraint against the petitioner not to interfere in their possession qua the land in question vide an order dated 31.10.2008 (Annexure P-5).

8. In the premise, I am of the view that ultimately rights of the parties would be crystalized depending on the outcome of civil suit and merely a mutation entry will not confer any right on either of the parties.

9. That being the position, I find no fault with impugned orders for remand the matter which is under challenge before this Court.

10. However, it is made clear that status quo qua title of property shall be maintained during the pendency of court proceedings subject to the final outcome thereof.

11. Learned counsel for the petitioner, at this stage, submits that though the civil suit has been filed by the private respondents seeking declaration that they be declared as collateral of the deceased father of the petitioner, however as per his information, on the last date of hearing, none appeared for them and the said suit had, therefore, been dismissed in default.

12. It is made clear that in case, no application for restoration of suit is filed, interim protection given by this Court which is to operate till the Civil Suit attains finality and shall automatically stand vacated thereafter.

13. Disposed of with above observations.

MARCH 09, 2021
Shalini/vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No