

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

115

CWP-12231-2021 (O&M)

Date of decision: 09.07.2021

DHARAMPAL

...Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present : Mr. Ajay Jain, Advocate for the petitioner.
Mr. Samarth Sagar, Addl. AG, Haryana.

ANIL KSHETARPAL, J. (Oral)

The hearing of the case was held through video conferencing on account of restricted functioning of the Courts.

The petitioner prays for issuance of a writ in the nature of certiorari to declare the action of respondents in transferring plot No.216, Old Civil Hospital Complex, Sirsa, in favour of respondent No.7 and subsequently, in favour of respondent No.8 to be illegal, arbitrary and contrary to the records.

As per the case of the petitioner, Sh. Ram Rakha was allotted the aforesaid plot by the Municipal Committee, Sirsa. Subsequently, the plot was entered in the name of Smt. Mishro Kaur, after various transfers, on 29.07.1998. It is alleged that she entered into a transfer agreement on 11.10.2003 in favour of Aanad Kumar son of Shiv Chand. However, he failed

to pay the required amount. Hence, on his request, the petitioner is alleged to

have paid the amount to Smt. Mishro Kaur. She acknowledged the receipt of the payment vide an affidavit dated 17.01.2004. The petitioner is stated to have applied for transfer of the plot in his name vide an application dated 14.07.2009.

Smt. Mishro Kaur is stated to have authorised Sh. Amar Singh son of Harbans Singh through a general power of attorney to effect the transfer. He is stated to have sold the plot to Jaaldar Singh son of Amar Singh and thereafter, Jaaldar Singh executed an affidavit claiming that he has purchased the plot from Smt. Mishro Kaur. On that basis, the Municipal Committee, Sirsa, transferred the plot in its record in favour of Jaaldar Singh on 02.06.2010. The petitioner is stated to have made various representations claiming that the application filed by him on 14.07.2009 has not been processed. The attention of the Court has been drawn to the communication of the executive officer intimating that the application filed by the petitioner was wrongly placed in the file of plot No.216, Auto Market.

Essentially, the petitioner challenges a mutation entry in the municipal record which was entered on 02.06.2010. Still further, in the facts of the present case, the ownership of the immovable property is in dispute. A civil suit for declaration of title is maintainable. Still further, the documents/agreement to sell/transfer agreements are required to be proved by leading relevant documentary evidence.

The learned counsel representing the petitioner while relying upon the judgment of the Hon'ble Supreme Court in **Whirpool Corporation Vs. Registrar of Trademarks Mumbai and others, 1999 (1) RCR (Civil) 220**, contends that if the concerned authority has passed the order without issuing notice to the affected party or in derogation of the rules, the High Court, in the exercise of its jurisdiction, is required to entertain a writ petition. However, in the facts of the present case, the question is whether a Writ Court should interfere in relation to a mutation entry which was entered in records 11 years ago. The ownership of the property is yet to be established.

Keeping in view the aforesaid facts, this Bench does not find it appropriate to entertain the writ petition. The petitioner, if so advised, may avail the alternative remedy.

Dismissed.

All the pending miscellaneous applications, if any, are also disposed of.

09.07.2021
ashok

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:	Yes / No
Whether reportable:	Yes / No