

119/7

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 16015 of 2021

Date of Decision: September 17, 2021

Ajit Singh

.....Petitioner

versus

Deputy Commissioner, Rupnagar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. G.S. Punia, Sr. Advocate with
Ms. Harveen Kaur, Advocate
for the petitioner

Ms. Anju Sharma Kaushik, DAG Punjab

Sudhir Mittal, J. (Oral)

Reply by way of affidavit of Sub Divisional Magistrate, Sri Chamkaur Sahib has been submitted in the Court. The same is taken on record.

Pritam Singh was the owner of land in dispute. He is survived by his two sons namely Ajit Singh and Ujjal Singh. During his lifetime, Pritam Singh suffered a collusive decree in favour of Ajit Singh in respect of his entire property. On the basis of this judgment and decree, mutation No.816 was entered. Ujjal Singh filed a suit for declaration that collusive judgment and decree dated 17.11.1994 is illegal and not binding on his rights as the property in the hands of Pritam Singh was ancestral in nature. The suit was dismissed but appeal of Ujjal Singh succeeded. Consequently, mutation No.1196 was entered reversing mutation No.816. Pritam Singh and Ajit Singh challenged the order of Appellate Court by way of RSA No.514 of 2000, which was decided vide judgment and decree dated 21.05.2020.

The judgment and decree of the First Appellate Court was set aside and a finding was returned that the suit property was the self-acquired property of Pritam Singh. During the pendency of the appeal, Pritam Singh executed a Will dated 29.09.2003 bequeathing his entire property in favour of Ajit Singh. The petitioner has sought entry of mutation on the basis of the said Will. However, the request has been rejected vide communication dated 06.07.2021 (Annexure P-9) by stating that there is no direction to this effect in the judgment dated 21.05.2020 passed by the High Court in RSA No.514 of 2000. The said judgment was modified vide order dated 28.04.2021 on the application filed by the appellant. The modification pertained to properties covered by Clauses a, b and c of the plaint. The said properties were declared to be self-acquired properties of Pritam Singh. The judgment and decree dated 21.05.2020 had already found that property included in Clause d of the plaint was the self-acquired property of Ajit Singh.

The reply has been filed on behalf of the respondents, which supports the communication dated 06.07.2021 (Annexure P-9) on the ground that the High Court has upheld the judgment and decree of the First Appellate Court regarding decree dated 17.11.1994. That being the case, a mutation cannot be entered on the basis of Will dated 29.09.2003.

Having gone through the record of this case, I am of the view that the reply filed does not deserve to be accepted as it is based upon misreading of the final order dated 28.04.2021. The order makes it clear that the suit properties were the self-acquired properties of late Pritam Singh and Ajit Singh. Thus, Pritam Singh was entitled to execute a Will regarding properties mentioned at Clauses a, b and c in the plaint. The revenue authorities were bound to enter a mutation on the basis of the Will. In case, the Will is challenged by Ujjal Singh, appropriate

action will be taken in accordance with law.

The writ petition is accordingly allowed and communication dated 06.07.2021 (Annexure P-9) is set aside. Tehsildar Sri Chamkaur Sahib is directed to consider the case afresh and take action in accordance with law.

September 17, 2021

Poonam Negi

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No