IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CWP No.17517 of 2021
Date of Decision: 16.09.2021

Swaranpal Singh & others

...Petitioner (s)

Versus

Financial Commissioner (Revenue), Punjab & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr.Rai Singh Chauhan, Advocate
for the petitioner.

Mr. Prateek Gupta, Advocate and
Mr. Parvinder Singh, Advocate
for the caveator-respondent.
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SUDHIR MITTAL, J. (Oral)

One Bhagwan Kaur had executed a gift deed dated 30.06.1930 and based upon the same, mutation No.1671 was entered. Inder Singh (the predecessor-in-interest of the petitioners) objected to the said mutation and the same was cancelled. Appeal against the order was dismissed. Thereafter, respondent no.6 sought review of the order passed and the application for review was accepted. The predecessor-in-interest of the petitioners appealed against this order and the appeal was accepted. Further appeal of respondent no.6 was dismissed. Inder Singh (predecessor-in-interest of the petitioners) filed Civil Suit No.115 dated 18.03.1974, wherein gift deed dated 30.06.1930 was also the subject matter of consideration. The suit was decided vide judgment and decree dated

12.04.1979 and gift deed dated 30.06.1930 was upheld. The predecessor-in-interest of the petitioners namely Inder Singh was also held to be a co-sharer on the basis of gift deed. Appeal against this judgment and decree was dismissed and Regular Second Appeal was withdrawn. Thus, judgment and decree dated 12.04.1979 attained finality. Based upon the same, respondent no.6 applied for entering a mutation. The mutation has been entered thereupon and appeal, revision and review preferred by the petitioners have been dismissed.

Learned counsel for the petitioners submits that respondent no.6 filed an application for recording entry of mutation on the basis of Civil Court decree, whereas the Assistant Collector approved the mutation no.1671. The said mutation had already been set aside and the order had attained finality. Thus, the revenue authorities were in error in sanctioning a mutation on the basis of mutation No.1671.

With the assistance of learned counsel for the petitioners, I have gone through order dated 08.10.2018 passed by Financial Commissioner (Appeals). The relevant part of the order is reproduced below for ready reference:-

> *"I have given my thoughtful consideration to the entire matter. It is not much in dispute that the contentions as have been raised, except regarding the preparation of duplicate mutation, have been considered in the civil court decree dated 12.4.1979, appeal against which has also been dismissed by the Additional District Judge, Patiala and the RSA filed by Inder Singh has been dismissed as withdrawn by the Hon'ble High Court. The civil court decree dated 12.4.1979 is on record and its perusal shows that the issues involved have*

been dealt with in it. The question regarding the gift by Bhagwan Kaur being valid in the face of the Farmane Shahi was considered in the civil court decree. It was held that the gift deed executed by Bhagwan Kaur was valid and did not suffer from any invalidity and the alleged Farmane Shahi stood repealed much before the institution of the suit that is the suit filed by Inder Singh. The question regarding Jai Kaur being a co-sharer in the land has also been considered and it was held that she was also owner of the land in suit on the basis of the pedigree table. The plaintiff Inder Singh was held to be a co-sharer in the land to the extent of his share only which would be his share as per the pedigree table of the successors of the husband of Bhagwan Kaur. It is quite evident from the contentions of the parties and also the decree of the civil court that the execution of the gift deed by Bhagwan Kaur is not in dispute. The plaintiff Inder Singh had claimed ownership by adverse possession, which was not accepted by the civil court. The gift deed in fact was held to be valid and it is now to be acted upon in mutation proceedings. Therefore, technicalities of a duplicate mutation being prepared is inconsequential as the civil court decree is binding on the revenue authorities and it is to be adopted and followed. The subordinate revenue authorities have followed the civil court decree in which the gift deed has been upheld. There is no reason to differ with the same. It may in fact also be noticed that due sanction of the Deputy Commissioner had been obtained for preparing of duplicate mutation. Therefore, the question of duplicate mutation being prepared is thus proper. As regards the other decree dated 5.12.1998, it has not been shown by the learned counsel for the petitioners as to what concern did the persons have with respect to the land against whom Inder Singh filed the suit. Their rights are not shown to be in existence in any manner

> *from the revenue records. It is not shown as to how they were concerned with the land. According to learned counsel for respondent No.1 the said suit filed by Inder Singh was collusive in nature and the persons against whom it was filed were strangers with no concern whatsoever with the suit land. The said contention has remained unreported."*

From above, it is evident that substantially, the Civil Court decree is being given effect to by preparation of duplicate of mutation No.1671. There is no dispute that mutation no.1671 was based upon gift deed dated 30.06.1930. The said gift deed has been upheld by the Civil Court and thus, there is no error in the order passed by the Financial Commissioner.

The writ petition has no merit and the same is dismissed.

September 16, 2021 (**SUDHIR MITTAL**)
AK **JUDGE**

Whether speaking / reasoned? Yes / No
Whether reportable? Yes / No