

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

Sr. No.121

**CWP-19295-2021 (O&M)
Date of decision : 24.09.2021**

Asri

..... Petitioner

VERSUS

Salamudin now deceased through his LRs and others Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Harsh Mehla, Advocate, for the petitioner.

SUDHIR MITTAL, J. (Oral)

The petitioner is the daughter of one Fazludeen. Said Fazludeen died on 16.07.1989, whereafter, his property was mutated in favour of his widow, namely, Alahijan. After her death, the petitioner applied for mutation in her favour, but the Assistant Collector, First Grade sanctioned mutation in favour of the private respondents-collaterals of deceased Fazludeen. Appeal by the petitioner before the Collector failed. She challenged the order of the Collector before the learned Commissioner and succeeded. However, the private respondents further challenged the order of the Commissioner before the Financial Commissioner and the order of the learned Commissioner has been set aside.

It is submitted that the learned Financial Commissioner should have upheld the order of the Commissioner because the petitioner has a better right than the collaterals because by virtue of law declared by this Court in various judgments, a daughter has a better right to estate of a father than the collaterals.

A perusal of the order of the Financial Commissioner shows that the petitioner had filed a civil suit for declaration of title, but the same was dismissed. Appeal is pending. Thus, the learned Financial Commissioner was well justified in setting aside the order of the learned Commissioner as in a lis inter parties judgment of the civil Court would be binding. Since, the appeal is pending, the mutation sanctioned in favour of the private respondents has been directed to be kept in abeyance awaiting the settlement of the rights of the parties by the civil Court.

In view of the aforementioned facts, reliance upon judgments passed by this Court is ill-conceived. Those judgments may be cited in support of the pending appeal, but cannot be utilized for the purpose of mutation.

The writ petition has no merit and is dismissed.

(SUDHIR MITTAL)
JUDGE

24.09.2021

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No