

CR No. 538 of 2022

Date of Decision: 18.02.2022

Neelam Kumar Oswal

....Petitioner

VS

Indian Sucrose Limited and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Ms. Dhivya Jerath, Advocate
for the petitioner

Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Jagvinder S. Santwal, Advocate
for respondent No. 1

SUDHIR MITTAL, J. (Oral)

Respondent No. 1 has filed a suit for declaration of title in respect of certain property. In the said suit, defendant No. 2 filed an application under Order 7 Rule 11 CPC for rejection of the plaint on the ground that the suit was barred by law. This application has been dismissed by the trial Court.

Learned counsel for the petitioner has argued that a mutation was entered in favour of respondent No. 1 some time in the year 2004 in respect of the very same property. The same was reversed on the basis of an order passed by the learned Collector in the year 2016. As per said order, mutation was entered in favour of defendant No. 2 – petitioner. The order of the Collector has been upheld by the Divisional Commissioner and a revision petition is presently pending before the Financial Commissioner, Revenue. Thus, Section 158(2)(vi) of the Punjab Land Revenue Act, 1887 (hereinafter referred to as 'the Act') bars the jurisdiction of the Civil Court. Further, the suit is also barred by limitation as a declaration has been sought for correction of jamabandi entries of the year 2016-17. The

appropriate remedy for respondent No. 1 would have been to get the revision petition decided by the Financial Commissioner and in case the order was against it, to file a writ petition against the same.

Section 158(1) of the Act makes it abundantly clear that a Civil Court shall not have jurisdiction in a matter which is within the jurisdiction of a Revenue Officer by virtue of the provisions of the said Act. Clause (vi) of Sub Section 2 provides that a Civil Court shall not exercise jurisdiction in matters regarding correction of any entry in a record-of-rights, annual record or register of mutations. What is actually barred by said statute is an issue of correction of an entry and not correction of the revenue record on the basis of title. It is settled law that title can only be decided by a Civil Court. Thus, the trial Court was justified in concluding that the jurisdiction of the Civil Court was not barred. The plea of limitation would be a mixed question of fact and law. Normally declaration of title can be sought at any time, the only limitation being a period of 12 years from the date a defendant comes into adverse possession of the same. Thus, the plaint could not have been rejected on this ground.

Proceedings pending before the revenue authorities arise out of a mutation matter. The same are not relevant for deciding title of parties.

In view of the above, the revision petition has no merit and is dismissed.

18.02.2022

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**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No