

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-11428-2022

Date of Decision: 25.05.2022

Sant Lal and another

....Petitioners

VS

The Commissioner, Gurugram Division, Gurugram Camp at Rewari and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. Kul Bhushan Sharma, Advocate
for the petitioners

SUDHIR MITTAL, J. (Oral)

The petitioners are two of the sons of Maha Singh whose inheritance is in dispute. Before his death Maha Singh had executed a registered Will in favour of four sons only. The petitioners had been denied any share in his property. After his death, the petitioners sought entry of mutation on the basis of natural succession whereas the other brothers sought an entry of mutation on the basis of the registered Will. The Assistant Collector 1st Grade sanctioned mutation on the basis of natural succession which order has been reversed by the Commissioner, Gurugram Division vide the impugned order.

A perusal of the impugned order shows that a finding has been returned that the registered Will is not suspicious at all. Exclusion of the petitioners therefrom was on the ground of pending criminal litigation with them. That apart, no other suspicious circumstance has been pointed out and, thus, the Will has been accepted. Liberty has also been given to the party claiming under the Will to file a civil suit and get the title decided.

Learned counsel for the petitioners submits that a party who claims on the basis of Will must approach the civil Court rather than seeking a mutation on

SLP (C) No. 13146 of 2021 titled as *Jitendra Singh vs. The State of Madhya Pradesh and others.*

The aforementioned argument can not be accepted as *Jitendra Singh (supra)* does not lay down any law that a party claiming on the basis of Will can not seek a mutation on the basis thereof. The observation made in the said judgment is in the context of the fact that while allowing the writ petition the High Court had observed that a party seeking a mutation on the basis of Will has the remedy of getting title decided by approaching the civil Court. In this case also learned Commissioner, Gurugram has held that mutation does not confer title and that title can always be got decided by filing a civil suit.

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

25.05.2022
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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No