

120

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-11531-2023

Date of decision: 26.05.2023

Balbir Singh and another

...Petitioners

Versus

Mahender Singh @ Kulwinder Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Mayank Gupta, Advocate for the petitioners.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the orders dated 27.04.2023, 05.10.2021, 13.01.2021 and 28.09.2020, vide which, mutation has been sanctioned in favour of all the legal representatives by rejecting the plea of the petitioners on the basis of Will dated 03.03.2020.

2. Learned counsel for the petitioners has submitted that in para of 27 of the judgment passed by the Hon'ble Division Bench of this Court in the case titled as **Jagjit Singh Vs. Divisional Commissioner, Patiala and others** reported as **2012(13) RCR (Civil) 96** it has specifically been observed as under:-

“27. xxx xxx. Since the proceedings are summary in nature and in exercise of administrative functions, therefore, such proceedings do not create or extinguish any right or title in the land. The right or title in the property is to be decided by the Civil Court. Therefore, this Court in exercise of writ jurisdiction does not

interfere with the orders sanctioning mutation, as such process does not involve any adjudicatory process of resolution of disputes amongst the parties and that any decision arrived at in the mutation proceedings does not determine the rights or interest of the parties.”

3. Learned counsel for the petitioners has further submitted that certain observations have been made by the Revenue Officer with respect to the Will in favour of the petitioners and the same should not come in the way of rights of the petitioners who have already instituted a civil suit for declaration. It is contended that in view of para 27 of the above said judgment, the petitioners be permitted to withdraw the present writ petition with liberty to take up all the points which have been raised in the present writ petition and are available to them in the civil suit with a clarification that the observations made in the order would not be binding on the civil proceedings.

4. In view of the same, the present Civil Writ Petition is dismissed as withdrawn with liberty to the petitioners to raise all the points which have been taken up in the present writ petition and are available to them in the civil suit which has been instituted by the petitioners.

5. Needless to say that any observations made by the Revenue Authorities would not be binding on the civil Court and the Civil Court would decide the issue with respect to inheritance or any other issue, independently and in accordance in law on the basis of the pleadings and evidence produced.

26.05.2023

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No