

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-15507-2017 (O&M)
Date of decision : 12.04.2023

Usha and others

... Petitioners

Versus

The Financial Commissioner Revenue Punjab and others

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Ashish Aggarwal, Senior Advocate with
Mr.Vishal Pundir, Advocate and
Ms.Nidhi, Advocate
for the petitioners.

Mr.Rohit Ahuja, DAG, Punjab
for respondents no.1 to 3.

Mr.Rohit Sud, Advocate
for respondent no.4.

VIKAS BAHL, J.(ORAL)

This is a civil writ petition filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of certiorari, mandamus, prohibition etc. for quashing the impugned orders dated 17.05.2017 (Annexure P-18) passed by the Financial Commissioner, Revenue, Punjab-respondent no.1 and order dated 28.03.2016 (Annexure P-15) passed by the Commissioner, Jalandhar Division, Jalandhar-respondent no.2.

The dispute in the present case is with respect to the mutation entry with respect to the estate of Parshotam Dass. Respondent no.4-Trust has claimed its ownership over the property in question on the basis of

petitioners was that Usha (petitioner no.1) daughter of Parshotam Dass had a registered Will dated 12.06.2000 in her favour and as per the Will, she had become owner of half the property of Parshotam Dass i.e., to the extent of 18 kanals 2 marlas and had executed two registered sale deeds in favour of the vendees. It is the common case of both the petitioners as well as respondent no.4 that three civil suits were filed with respect to the estate of Parshotam Dass. The first suit was a suit filed by trustees of respondent no.4-trust on 28.04.2009 in which a prayer was made for declaration to the effect that respondent no.4-trust is owner in possession of the property in question on the strength of gift deed dated 05.11.1969 and that the sale deeds in favour of the vendees were not binding upon the plaintiff-trust. The said suit has admittedly been decreed vide judgment dated 23.12.2022 (placed on record as Annexure A-1 along with CMs-2083-84-CWP-2023). The appeal against the said judgment and decree is stated to be pending. The second suit was a suit filed by petitioners no.2 to 6 against the trustees of respondent no.4-trust and in the said suit, declaration was sought to the effect that the plaintiffs therein (petitioners no.2 to 6) have become owners of the suit property by virtue of two sale deeds and mutation has been sanctioned in their favour. The said suit is stated to have been dismissed and since a copy of the judgment and decree has not been made available to petitioners no.2 to 6 as per their version, thus, they have not been able to file an appeal against the same. The third suit has been filed by petitioners no.2 to 6 on 02.02.2009 against the State of Punjab and others respondents seeking permanent injunction restraining defendants no. 1 to 3 therein from making any alterations in the mutation and passing any order of cancellation and from changing the mutation entry of the plaintiffs. The said suit is also stated to have been dismissed. It is the case of the petitioners that

since a copy of the judgment and decree has not been made available, thus, they have not filed an appeal against the same.

During the course of arguments, learned senior counsel for the petitioners and learned counsel for respondent no.4 are *ad idem* that since the civil suit filed by the trustees has been decreed and the civil suits filed by some of the petitioners have been dismissed, thus, the mutation of the property in question is to be entered on the basis of the gift deed dated 05.11.1969 which has been upheld vide judgment and decree dated 23.12.2022 and vide the same judgment, the sale deeds in favour of some of the petitioners have been held to be not binding upon respondent no.4 and have been set aside. Learned senior counsel for the petitioners has, however, submitted that since the appeal against the said judgment and decree is pending and the petitioners are also likely to file appeal against the other two judgments and decree, thus, any further change in the mutation entry should be done in accordance with the orders passed by the appellate Court, in accordance with law.

Learned counsel for respondent no.4 has stated that he has no objection to the said submission made by learned senior counsel for the petitioners.

Keeping in view the above said facts and circumstances, the present petition is disposed of in the following terms:-

- i) The Assistant Collector 2nd Grade is directed to enter the mutation of the property in question on the basis of gift deed dated 05.11.1969 and in accordance with the judgment and decree dated 23.12.2022 passed in civil suit no.89051 of 2013 within a period of two weeks from the date certified copy of the present order is given to the Assistant Collector 2nd Grade.

ii) Any further change in the said entry would be in accordance with the orders passed by the appellate court in the appeals filed by the petitioners against the judgment and decree dated 23.12.2022 and in the appeals to be filed against the judgment and decree in the two civil suits filed by some of the petitioners which have been dismissed and have been referred to in detail in paragraph 17 of the writ petition.

Pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

April 12, 2023
Davinder Kumar

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