

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

CR-3491-2022
Date of Decision:-**05.07.2023**

SHEETAL KUMAR @ ARYAN

....Petitioner

Versus

DEV RAJ AND ORS

..... Respondents

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CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

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Present:- Mr. Mandeep K. Sajjan, Advocate
for the petitioner.

Mr. Sandeep Khunger, Advocate
for respondent No.1.

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KARAMJIT SINGH, J. (Oral)

1. This civil revision petition has been filed by the petitioner seeking quashing of order dated 5.7.2022 (Annexure P-6), passed by the Court of Civil Judge (Junior Division), Abohar whereby application filed by the petitioner/JD for issuance of direction to the respondent No.1/decreed-holder to admit or deny the mutation No.35827 regarding transfer of property by respondent No.1/decreed-holder in favour of Ajay Pal Singh entered in Jamabandi in the year 2011-12, has been dismissed.

2. The brief facts of the case are that the suit for declaration and possession filed by respondent No.1-Dev Raj was decreed by the Court of Civil Judge and the appeals filed by petitioner/JDs against the said judgment and decree are dismissed by the Appellate Courts and the copy of the judgment passed in RSA-1890-2022 dated 12.12.2022 is taken on record. Respondent No.1 has filed application for execution of the decree which has been upheld upto this Court and in the said execution application petitioner/JD filed an application for admission or denial of the fact of sanctioning of mutation No.35827 regarding transferring of property by decree-holder in favour of Ajay Pal Singh.
3. The said application was contested by respondent No.1 and was dismissed by the executing court vide impugned order dated 5.7.2022.
4. Being aggrieved the present revision petition has been filed by the petitioner/JD.
5. I have heard the counsel for the parties.
6. The counsel for the petitioner submits that there is no doubt that petitioner has remained unsuccessful upto this Court and RSA stands dismissed. It is further submitted that there is dispute regarding the identity of the suit property in question and the decree in question was obtained by respondent No.1 by suppressing material and true facts from the Court and that the property in question is already transferred in the name of Ajay Pal Singh by respondent No.1, who further sold the same to Seema Kumari and mutation is also sanctioned in her

name. The counsel further submits that question regarding identity of the property in dispute is to be adjudicated by the executing court, which has already issued warrants of possession of the suit property. The counsel for the petitioner further submits that the present petition be allowed. In support of his argument, the counsel for the petitioner has placed reliance upon the decision of Bombay High Court in **Dr. Mudhkar Trimbak Gore vs. Vasant Rama Krishna Kolhatkar, AIR 1983, Bombay 277 (at Nagpur).**

7. The present petition is resisted by counsel for respondent No.1, who submits that the application in question was moved by petitioner to delay the execution of decree, which has been upheld by this Court in RSA-1890-2022. It is further submitted that the suit property has been specifically detailed in the suit and there is no dispute regarding its identity and further the issue regarding identity of suit property has already been dealt by High Court in RSA-1890-2022. The counsel for the petitioner further submits that mutation No.35827 regarding which the JD sought admission or denial, has got no concern with the proceedings regarding decree dated 28.11.2017, which has been upheld by this Court in RSA-1890-2022. It is further submitted that the present petition has been filed by the petitioner just to prolong the execution proceedings.
8. I have considered the submissions made by the counsel for the parties.
9. Respondent No.1 filed civil suit for declaration that he is the owner of suit property measuring 8 kanals compromised in rect. No.148 Killa No.3(8-0), Khewat No.1093 situated in area of Azimgarh Tehsil

Abohar as per Jamabandi for the year 2011-12 and further declaration that he is owner in possession of land measuring 4 kanals compromised in rect. No.148 Killa No.3 west (4-0), Khewat No.1093 situated within the area of Azimgarh Tehsil Abohar as per Jamabandi for the year 2011-12 along with suit for possession of land measuring 4 kanals compromised in rect. No.148 Killa No.3 east (4-0), Khewat No.1093 situated within the area of Azimgarh Tehsil Abohar as per Jamabandi for the year 2011-12 and suit for recovery of Rs.75,932.76/-. The said suit which was contested by the defendants was decreed by the Court of Civil Judge and the said decree has been upheld upto High Court and RSA-1890-2022 has been dismissed vide judgment dated 12.12.2022.

10. The suit property has been fully detailed in the plaint. From the perusal of the judgment dated 12.12.2022 passed in RSA-1890-2022, it appears that petitioner raised issue regarding identity of the suit property in the RSA, however, the said plea was rejected by High Court while passing judgment dated 12.12.2022. So in the execution proceedings, the petitioner cannot agitate the same issue which was already raised by him and dealt by the Court concerned in the RSA. The facts and circumstances of the law cited by counsel for the petitioner are different from that of the present petition. So the petitioner cannot take any benefit of the same
11. As per counsel for respondent No.1, mutation No.35827 is not relating to land in question. Even otherwise, it is settled law that mutation

does not confer any title in favour of the person in whose name it has been sanctioned.

12. In light of the above discussion, I do not find any infirmity or illegality in the impugned order and consequently the present revision petition is hereby dismissed.

05.07.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

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