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

CWP-24095-2023

Date of decision : 20.10.2023

Deepti Garg**.....Petitioner**

versus

State of Haryana and others**..... Respondents****CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Rakesh Bakshi, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Petitioner has approached this Court praying for quashing the impugned order dated 27.07.2023 (Annexure P-7) passed by respondent No.2-Financial Commissioner (Revenue), Haryana whereby the Revision Petition ROR No.264 of 2023 filed by the petitioner has been dismissed illegally, illogically and arbitrarily, as well as quashing of the impugned order dated 03.03.2023 (Annexure P-4) passed by learned Assistant Collector 1st Grade, Naraingarh being passed without jurisdiction, as genuineness of the Will is decided by Revenue Court, for which only civil court has jurisdiction to decide and the impugned order dated 17.05.2023 (Annexure P-6) passed by learned Collector, Ambala where the appeal of the petitioner is dismissed by upholding the impugned order dated 03.03.2023 without waiting for the outcome of the Civil Court proceedings setting aside by the Will dated 19.07.2017 illegally by exceeding jurisdiction, which only Civil Court has power to do so.

It has been contended by counsel for the petitioner that one Krishna Devi executed a Will dated 07.07.2014 in favour of respondent No.3 being her sister. Krishna Devi died on 23.04.2018 and before her death, she executed a second Will dated 19.07.2017 in favour of the petitioner, being daughter of her brother. He has contended that she cancelled her earlier Will dated 07.07.2014. It is submitted that the second Will dated 19.07.2017 made by Krishna Devi in favour of the petitioner was got registered before the Registrar Nariangarh on 09.09.2019. He submits that all the brothers and sisters of the deceased except respondent No.3 executed affidavit in favour of the petitioner. Resultantly, Mutation No.12679 Area Nariangarh Hadbast No.88 was got registered in the name of the petitioner. Respondent No.3 filed an application and objected to the mutation. Thus, the Assistant Collector 2nd Grade entered Mutation No.12679 Area Naraingarh as contested and referred the same to Assistant Collector Ist Grade for decision. He submits that the civil suit for declaration was filed by the respondent challenging the Will dated 19.07.2017. Thereafter, the Assistant Collector Ist Grade, Naraingarh set aside the second Will dated 19.07.2017 vide his order dated 03.03.2023 by exceeding its jurisdiction and directed that the contested Mutation No.12679 be set aside with immediate effect. He submits that aggrieved by the same, petitioner filed an appeal before the Collector, Ambala which was illegally dismissed by the Collector vide impugned order dated 17.05.2023. Aggrieved by the same, petitioner filed revision petition before respondent No.2 under Section 16(2) of the Punjab Land Revenue Act. He submits that learned Financial Commissioner without appreciating the evidence on record and the law

settled illegally dismissed the revision filed by the petitioner vide impugned order dated 27.07.2023. It is submitted by counsel for the petitioner that the genuineness of the Will could only be decided by the Civil Court and the Revenue Courts had no jurisdiction whereas in the present case, the impugned orders have been passed by the Revenue Courts by exceeding their jurisdiction. He submits that the impugned order passed by learned Financial Commissioner is cryptic and non-speaking one. It is submitted that the genuineness of the Will has been ignored only by holding the same as suspicious without there being any evidence on record. He submits that once the Will in the name of deceased's sister Shashi Bala on 07.07.2014 was cancelled then the second Will in the name of her niece Deepti Garg i.e. the petitioner suffers from no illegality. He submits that as per the law settled, there is no restriction on the number of Wills a Testator can execute during his/her lifetime and hence the last Will made before his/her death would be enforceable. He submits that there being no evidence on record, learned Courts below have illegally held the last Will to be suspicious and thus, the impugned orders passed are totally unsustainable in the eyes of law. It is submitted that the Courts below have illegally rejected the second Will on the ground of delay in registration of the same. He has submitted that it was the mistake on the part of the revenue authorities in registering the Will late and thus, the petitioner could not be held responsible for the same. It is submitted that the impugned orders being totally unsustainable in the eyes of law deserve to be *set aside* by accepting the second Will dated 19.07.2017 as genuine.

Heard. After hearing counsel for the petitioner and perusing the record, it is apparent that the petitioner filed an application for sanction of mutation on the basis of registered Will dated 19.07.2017. The objections to the same were filed by the respondent and the mutation was held to be contested by Tehsildar Nariangarh and hence, the matter was sent to the Assistant Collector Ist Grade who vide order dated 03.03.2023 set aside the said Mutation No.12679. The said order was challenged by the petitioner before the Collector, Ambala by way of filing an appeal however, finding no merit in the same, the appeal was dismissed by the Collector vide order dated 17.05.2023. It is apparent from the record that the civil proceedings were pending before the Civil Court wherein the petitioner had filed a civil suit for declaration with regard to property in dispute. The validity of the second Will dated 19.07.2017 was under challenge. It is evident from the record that the deceased had executed a Will dated 17.07.2014 in favour of her sister namely, Shashi Bala i.e. respondent No.3. Thereafter, the second Will in question was executed on 19.07.2017 in favour of her niece i.e. petitioner. Thus, both the parties were claiming right over the property by way of inheritance on the basis of two separate Wills before the Civil Court. It is a settled proposition of the law that for ascertaining the validity of the multiple Wills, the jurisdiction lies with the Civil Court. The second Will was executed on 19.07.2017 and the Testator died on 23.04.2018. This Will was registered before the Sub Registrar after the death of the Testator through Document No.95 dated 09.09.2019. Thus, on the basis of the facts and circumstances of the case, the Revenue Courts found the same to be suspicious and hence, held that the jurisdiction for

ascertaining the genuineness of the Will lies with the Civil Court only. There are concurrent findings by the Courts below against the petitioner. Thus, in the overall facts and circumstances, this Court does not find any infirmity in the impugned orders passed by the Appellate and Revisional Authorities and hence, the petition being devoid of any merits is hereby dismissed.

20.10.2023
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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