113 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2324-2024
Date of Decision: 02.02.2024

Ajit Singh and others ..... Petitioners

Versus

Financial Commissioner Appeals and others ......Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Mr. V.K. Sandhir, Advocate, for the petitioners.

Rajesh Bhardwaj, J.

Prayer in the present petition is for setting aside the order dated 07.09.2011 (Annexure P-2) passed by respondent No.4, whereby the entry of mutation on the basis of order dated 03.05.1962 (Annexure P-2) passed by Additional Director Consolidation, Punjab has been declined; order dated 26.12.2012 (Annexure P-4) passed by respondent No.3, whereby, the appeal (Annexure P-3) challenging the order dated 07.09.2011, has been dismissed; order dated 01.10.2019 (Annexure P-6) passed by respondent No.2, whereby the revision (Annexure P-5) has been dismissed and order dated 15.09.2023 (Annexure P-8) passed by respondent No.1, whereby the ROR challenging the order dated 07.09.2011 (Annexure P-2), 26.12.2012 (Annexure P-4) and 01.10.2019 (Annexure P-6) has been dismissed. Further prayer has been made to direct respondent No.1 to enter the mutation as per the order dated 03.05.1962 (Annexure P-1).

It has been contended by learned counsel for the petitioners that the grandfather of the petitioners, namely, Swarn Singh was allotted land measuring 11 Kanals 13 Marlas vide order dated 03.05.1962 passed by the Additional Director Consolidation and Holding, Punjab (for short, ‘the Director’). He submits that the order dated 03.05.1962 was not entered in the revenue record by the Revenue Department and thereafter, the petitioners applied for entering the aforesaid order and mutation on the name of the petitioners in the revenue record. He submits that the same was contested by respondent No.4 and the learned Assistant Collector Grade-I, Amritsar dismissed the claim of the petitioners vide order dated 07.09.2011. It is submitted that being aggrieved the petitioners assailed the same by way of filing of an appeal under Section 13 of the Punjab Land Revenue Act before the Collector-Cum-Deputy Commissioner, Amritsar, however, the learned Deputy Commissioner dismissed the appeal filed by the petitioners vide order dated 26.12.2012. He submits that still aggrieved the petitioners filed their statutory revision petition before the Divisional Commissioner, Jalandhar impugning the orders dated 07.09.2011 and 26.12.2012. He submits that it was specifically pleaded by the petitioners that there is no limitation provided for entering the mutation on the basis of the order passed by the Director and thus, the petitioners could not be deprived from the benefit of order passed by the Director. However, the learned Divisional Commissioner without appreciating the facts and circumstances of the case and the statutory provisions, dismissed the same vide order dated 01.10.2019. It is further submitted that the petitioners being aggrieved filed ROR before the learned Financial Commissioner impugning the orders dated 07.09.2011, 26.12.2012 and 01.10.2019, however, the learned Financial Commissioner has also fallen in error in dismissing the ROR vide order dated 15.09.2023. It is vehemently contended by learned counsel for the petitioners that the learned revenue Courts have failed to appreciate that there was no limitation provided under the Act seeking entry of mutation on the basis of allotment of land ordered by the Department of consolidation.

He submits that the impugned orders being unsustainable in the eyes of law, deserves to be set aside.

Heard.

After hearing learned counsel for the petitioners and perusing the record, it is apparent that grandfather of the petitioners was allotted land on 03.05.1962. The petitioners applied for entering this order and mutation in the revenue record, however, the revenue authorities rejected the same. It is revealed from the order passed that there were lot of changes in the record as most of the right holders sold the land and new owners came into possession of the land in dispute. The land in dispute was also found to have been hypothecated with the Bank. These new entries were incorporated in the *Jamabandi*. As per statutory provisions of the Punjab Land Revenue Act, the revenue authorities have jurisdiction to correct the entries, which does not affect the substantial rights of the parties and have been entered inadvertently. However, once the entries in the revenue record are made and the change of the same affects their substantial rights, then revenue authorities would not have the right to change the entries and the jurisdiction lies with the Civil Courts. Prayer of the petitioners has been declined by the revenue authorities below primarily on this ground only as the order prayed to be implemented is dated 03.05.1962 and during this period the disputed land was sold among the new parties and their title mutation was also entered in the *jamabandi.* Thus, this Court does not find any infirmity in the impugned orders passed, wherein, all the revenue authorities have rejected the prayer of the petitioners on the issue of jurisdiction as the same lies with the Civil Courts. Hence, finding no infirmity in the impugned orders, the Court is unable to differ with the view taken by the revenue authorities and thus, the present petition being devoid of any merit is hereby dismissed. However, the petitioners would be at liberty to avail their alternative remedy as available to them under law.

(RAJESH BHARDWAJ)
JUDGE

02.02.2024
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Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No