

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

CWP-5045-2024

Date of decision : 04.03.2024

Jai Bhagwan

.....Petitioner

versus

Commissioner, Gurugram Division, Gurugram and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Akash Yadav, Advocate
for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for setting aside/quashing the order dated 31.08.2023 of learned Commissioner, Gurugram Division (Annexure P-1) whereby the order dated 13.02.2020 sanctioning the mutation No.1647 has been *set aside* as well as the same being in teeth of the earlier order dated 16.06.2022 whereby the Learned Commissioner, Gurugram Division had ordered not to enter any mutation into the record on the basis of the suspicious decree dated 13.08.1996 (Annexure P-6).

It has been submitted by counsel for the petitioner that the grievances emanating from the fact that learned Commissioner after holding the alleged compromised decree dated 13.08.1996, as suspicious on account of *ex-facie* apparent circumstances in the earlier order dated 16.06.2022, has reviewed its own finding in the impugned order dated 31.08.2023. He has submitted that the compromised decree dated 13.08.1996 was passed on the back of the parties without due authorization and in contravention of Section 17 of The Registration Act, 1908. He has submitted that father of the petitioner vide will dated

16.12.1996 devolved all his the immovable and movable properties in favour of the petitioner. Thereafter, father of the petitioner died on 21.04.1998. Petitioner being the sole executor, instituted a probate proceedings in Probate Petition No.1 of 2008/2012. He submits that with the motive to create 3rd party rights in the *lis* property, Babu Lal son of Basanta got the above-mentioned suit property in the name of trust run and operated by Babu Lal by the name of Mata Kaushaliya Devi Charitable Trust, respondent No.2 vide order dated 08.03.2010. He further submits that after dismissal thereof, petitioner preferred an appeal before the Hon'ble High Court by way of filing FAO No.5853 of 2013. He has submitted that on 26.06.2012, mutation was sanctioned on the basis of the decree passed in favour of respondent No.2. During the subsistence of the stay order, compromise dated 11.05.2017 was entered into between the petitioner and his brother Ram Niwas. Hon'ble Court declined to dispose of the appeal on the basis of said compromise and another writ petition No.22433 of 2018 titled as *Ram Niwas Vs. State of Haryana and others* was disposed of with liberty to Ram Niwas to approach the Revenue Authorities for the necessary relief on 05.09.2018. He has submitted that the petitioner represented before the Revenue Authorities and sought mutation in the record based on the mediation report dated 11.05.2017. Thus, the Mutation No.1647 was sanctioned in support of the land comprised in Survey Nos.3/2, 4/1, 6, 7, 8/1 of Rectangle Number 21 and Survey No.24/1. He submits that respondent No.2 filed objections against the sanctioning of the mutation which were rejected on 13.02.2020. The appeal was filed by respondent No.2 against the dismissal of his objections. He submits that meanwhile, in another set of proceedings where the revenue records of the Village Gopalpur were also under

consideration, learned Commissioner came to be apprised by various illegalities and irregularities in the circumstances leading to the passing of the decree dated 13.08.1996. Thus, learned Commissioner had ordered that no mutation be sanctioned until and unless there was clarity regarding the validity of the decree dated 13.08.1996 passed by the Civil Court. Taking note of the order passed by the Commissioner, the Collector Gurugram rejected the appeal vide order dated 21.12.2022. It is submitted that learned Commissioner in execution revision petition No.58 of 2023 without dealing with the ex-facie suspicious circumstances surrounding the decree dated 13.08.1996 allowed the said revision and had erroneously observed correctness of the decree dated 13.08.1996. It is submitted that the impugned order passed by the learned Commissioner is against the evidence on record and thus, being unsustainable in the eyes of law, deserves to be *set aside*.

Heard. After hearing counsel for the petitioner and perusing the record, it is apparent that the case in hand has a chequered history as the litigation before the various forums have been pending regarding the disputed mutation. Respondent No.2 had filed the revision petition against the order passed by the Collector dated 21.12.2022 vide which the appeal of respondent No.2 against the order dated 13.02.2020 passed by the Collector, Gurugram was dismissed. Learned Commissioner heard both the sides and re-appreciated the record of the case. It is found from the record that Ram Niwas father of respondent No.3 filed a civil suit bearing No.905 of 1996 wherein he challenged the decree dated 13.08.1996 alleging that as per the family settlement of 1992, land measuring 121 kanals 7 marlas and 32 kanals had come to his share exclusively and thus, the compromise on the basis of which the judgment dated 13.08.1996

passed was illegal and not binding on him. The suit was contested by the petitioner and his father Basant Lal. Both of them in their written statement admitted that as per compromise between the parties, a compromise decree dated 13.08.1996 was passed by the Court of Sh. H.S. Bhangoo, Additional District Judge, Gurugram and the compromise was duly signed by Sh. Ram Niwas. The Suit No.905 of 1996 was dismissed vide judgment dated 17.01.2008. The appeal was filed by Ram Niwas against this order was dismissed vide order dated 14.03.2008. Thereafter, RSA No.1344 of 2008 filed by Ram Niwas against these judgments was also dismissed vide order dated 17.03.2016. Thus, the compromise decree dated 13.08.1996 was upheld. It was mentioned in the compromise that the parties were related to each other as all the three persons namely, Ram Niwas, Babu Lal and Jai Bhagwan were the sons of Basant Lal and as per the family settlement all the joint properties of the parties have been partitioned. Thus, it was evident from the record that the litigation between the parties were in progress from the last 30 years. This Court in FAO No.5853 of 2013 had ordered status quo vide order dated 05.02.2014. Once there was a *status quo* granted by this Court, the Revenue Authorities could not have entered the Mutation No.1647 for transferring the land of respondent No.2 in favour of the petitioner. The petition for granting probate under Section 276 of the Indian Succession Act, 1925 was filed by the petitioner on 14.06.2008. This probate petition was dismissed by the Court, thus, learned Commissioner had executed the revision petition filed by respondent No.2 to maintain the status quo as it existed on 05.02.2014 as per the order passed by this Court. The Revenue Authorities rightly directed to proceed further as and when the decision is taken by this Court in FAO-5853 of 2013.

In view of the facts and circumstances of the case and the order passed by this Court in FAO-5853 of 2013, this Court does not find any infirmity in the impugned order passed by learned Commissioner. Resultantly, this petition being devoid of any merits, is hereby dismissed.

04.03.2024
m. sharma

(RAJESH BHARDWAJ)
JUDGE

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