

2024:PHHC:132741



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

CWP-24993-2024

Date of Decision: 04.10.2024

Harcharan Singh Gill

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Kamaldeep Kumar, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG, Punjab.

HARSH BUNGER J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside impugned order dated 08.07.2024 (Annexure P-1) passed by the learned Deputy Commissioner-cum-Collector, Amritsar.

2. Briefly, the petitioner claims that his father (Late Shri Buta Singh) was adopted by Late Shri Santa Singh in the year 1942, who inherited the entire agricultural land of Late Shri Santa Singh; and after the death of Shri Buta Singh (father of petitioner), the petitioner inherited the said land. It is stated that Late Shri Santa Singh was living in Thailand since 1937 and after his adoption, Buta Singh (father of petitioner) also shifted to Thailand for some time. It is stated that one Balwant Singh son of Harnam

Singh, by hatching conspiracy, got the ancestral land of petitioner mutated in his name and took forcible possession of the same.

2.1 It is the case of petitioner that his entire family is settled in Australia and he, being the senior citizen, was unable to take care of his ancestral land alone; and the land has wrongly been transferred in the name of Balwant Singh.

2.2 It is stated by the petitioner that he had submitted representation dated 05.09.2022 (Annexure P-2) before the learned Deputy Commissioner, Amritsar; however, no action was taken thereupon. Thereafter, petitioner filed a writ petition bearing CWP No.21933 of 2022 before this Court, which was disposed of vide order dated 12.02.2024 (Annexure P-3) with a direction that the Deputy Commissioner, Amritsar shall look into the representation dated 05.09.2022 of the petitioner and decide the same within a period of four weeks from the date of passing of said order, i.e. 12.02.2024.

2.3 Petitioner further states that despite the aforesaid order dated 12.02.2024 (Annexure P-3), no action was taken on representation dated 05.09.2022; therefore, petitioner preferred a contempt petition (COCP No.1833 of 2024), wherein notice was issued and during pendency of the same, learned Deputy Commissioner-cum-Collector, Amritsar disposed of petitioner's representation dated 05.09.2022 vide impugned order dated 08.07.2024 (Annexure P-1), without entertaining petitioner's claim.

3. In the aforementioned circumstances, the petitioner has filed the present writ petition before this Court.

4. Learned counsel for the petitioner submits that the learned Deputy Commissioner-cum-Collector, Amritsar has failed to appreciate the

vital facts stated in representation dated 05.09.2022 (Annexure P-2) and has not enquired into the fact that how his property has been transferred in the name of Balwant Singh. It is submitted that the claim of petitioner is genuine one and the Deputy Commissioner has declined to entertain the petitioner's representation by observing that he could have availed his statutory remedy under Section 45 of the Punjab Land Revenue Act, 1887.

5. Heard.

6. Impugned order dated 08.07.2024 (Annexure P-1) passed by the learned Deputy Commissioner-cum-Collector, Amritsar, reads as under:-

"1. This Order of mine shall dispose of the representation dated 05.09.2022 (Annexure P-1 of CWP No.21933 of 2022), in compliance with directions passed by the Hon'ble Punjab and Haryana High Court, vide its Order dated 12.02.2024.

2. Perusal of the aforesaid representation dated 05.09.2022 reveals that it has been alleged by the petitioner-Harcharan Singh Gill that his father Sh.Buta Singh is having land measuring 57 Kanal 7 Marla in the area of Village Shukarchak, Tehsil and District Amritsar. It has further been alleged that his father Sh.Buta Singh was adopted by Sh.Santa Singh and an Adoption Deed, in this regard, was executed. However, he and his father were in Thailand and at their back, one person namely, Balwant Singh son of Harnam Singh got the land transferred/mutated in his name and subsequently mutations have been sanctioned in favour of his legal heirs/successors and the petitioner-Harcharan Singh Gill and his father were unaware about the same. It has also been alleged that Santa Singh was also living in foreign country since 1937.

Petitioner-Harcharan Singh Gill has prayed for redressal of his aforesaid grievance with regard to agriculture land measuring 57 Kanal 7 Marla comprising in Khewat Khatauni No.200/274, 199/273, 149/293, 201/375 to 278 comprising in Khasra No.14/16/2, 17/1, 24/2/1, 24/2/2, 25, 15//21/2, 20/2, 21/1, 4//6min, 15/2min, 14//15/2min, 14//6min, 20//10, 23, situated in Village

Fatehgrah Shukar Chak, Tehsil and District Amritsar and the mutations already sanctioned in the revenue records in the name of Balwant Singh along with all other subsequent mutations sanctioned in favour of his successors, be cancelled and thereafter mutation be entered in the name of petitioner-Harcharan Singh Gill.

3. In this matter report of Tehsildar, Amritsar-2 was called.

4. From the appraisal of report of Tehsildar, it transpires that as per revenue records mutation qua the land belonging to Santa Singh, situated in the area of Village Fatehgarh Shukarchak, Hadbast No.252, Tehsil Amritsar-2, District Amritsar was sanctioned on the basis of succession, vide Mutation No.1176 dated 21.01.1948 in the name of Balwant Singh being the adopted son of Santa Singh and the said mutation was sanctioned prior to the consolidation of land and even prior to the consolidation of land (Misal Hakiyat), duly stood incorporated in the Jamabandi for the year 1954-55.

5. In view of the foregoing facts and observations, I am of the considered opinion that in view of the statutory restriction provided under Section 45 of the Punjab Land Revenue Act, 1887, revenue officials, at this belated stage, cannot interfere in the said settled entries incorporated in Jamabandi for the year 1954-55. If the petitioner-Harcharan Singh Gill or his father felt aggrieved with the sanctioning of Mutation No. 1176 dated 21.01.1948 sanctioned in the name of Balwant Singh and/or subsequent mutations sanctioned in favour of his successors in interests, the appropriate remedy was to assail the same before competent authority prescribed under the law by invoking the provisions of the Punjab Land Revenue Act, 1887 at the relevant point of time. Thus, the aforesaid representation of petitioner dated 05.09.2022 is disposed of, accordingly. Papers be consigned after due legal compliance, as per rules and instructions, in this regard.”

7. A bare perusal of the aforesaid order (Annexure P-1) shows that the land belonging to Santa Singh was transferred in the name of Balwant Singh on the basis of succession, vide Mutation No.1176 dated 21.01.1948.

It is further borne out that thereafter even consolidation of the village land had taken place in the year 1954-55.

8. Apparently, the predecessor of petitioner and/or the petitioner have failed to avail their legal remedies in accordance with law against the aforesaid Mutation No.1176 dated 21.01.1948. The petitioner has not placed on record the subsequent revenue records; and by now, various subsequent *jamabandi* must have come into existence. Petitioner appears to have been sleeping over his rights, if any. It cannot be accepted that the petitioner was not aware of the position existing in the revenue records for all these years.

8.1 Be that as it may, the Deputy Commissioner, Amritsar has considered the claim of the petitioner and has rightly observed that in view of the statutory restrictions under the Punjab Land Revenue Act, 1887, the revenue officials, at this belated stage, cannot interfere in the said settled entries incorporated in Jamabandi for the year 1954-55. It has further been rightly held that in case, the petitioner or his father was aggrieved against the sanctioning of Mutation No.1176 dated 21.01.1998 and/or the subsequent mutations sanctioned in favour of the successors-in-interest then the appropriate remedy was to assail the same before the competent authority/Court.

9. Section 45 of the Punjab Land Revenue Act, 1887 would read as under:-

“45. Suit for declaratory decree by persons aggrieved by an entry in a record.

- If any person considers himself aggrieved as to any right of which he is in the possession by an entry in a records-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877. “

10. Keeping in view the aforesaid facts and circumstances, I do not

find any error in the observations made by the Deputy Commissioner-cum-Collector, Amritsar in the impugned order dated 08.07.2024 (Annexure P-1). Resultantly, the instant writ petition is dismissed.

11. All the pending application(s), if any, shall also stand closed.

04.10.2024
Apurva

(HARSH BUNGER)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No