

2024:PHHC:165836



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

CWP-33329-2024 (O&M)
Date of decision :11.12.2024

BALWINDER SINGH

...Petitioner

Versus

THE FINANCIAL COMMISSIONER (APPEALS),
PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Dr. Anand Kumar Bishnoi, Advocate
for the petitioner.

Mr. Navneet Singh, Sr. D.A.G., Punjab.

HARSH BUNGER, J. [ORAL]

Petitioner (Balwinder Singh) has filed the present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of *certiorari*, for setting aside the orders dated 01.03.2018 (Annexure P-9) and 30.01.2024 (Annexure P-11), passed by the learned Financial Commissioner (Appeals), Punjab.

2. According to the petitioner, one Sh. Baldev Singh son of Sh. Ralla Singh, was married to Smt. Balwinder Kaur (respondent No.5) and out of the said wedlock, they had a son namely, Jasbir Singh (respondent No.6). Smt. Balwinder Kaur, is stated to have left Sh. Baldev Singh in the year, 1977 and thereafter, Sh. Baldev Singh is alleged to have married one Paramjit Kaur on 12.02.1987. Baldev Singh is stated to have expired on 28.06.2007. Petitioner claims that above-said

Baldev Singh executed a Will dated 16.06.2007, in favour of Smt. Paramjit Kaur and Jasbir Singh (respondent No.6).

2.1 It appears that upon the death of Sh. Baldev Singh on 28.06.2007, respondent No.6-Jasbir Singh, moved an application for transferring the estate of his father (Sh. Baldev Singh) by entering/sanctioning of a mutation; wherein, Smt. Paramjit Kaur raised an objection, *inter alia*, on the plea that she was the wife of deceased-Baldev Singh. It transpires that since the mutation was contested, the same was referred to the learned Assistant Collector Ist Grade, Ludhiana (West), who vide his order dated 30.06.2009 (Annexure P-4), had directed that Mutation nos.46741 and 59513 of Village Gill-I and Gill-II, be sanctioned in favour of Balwinder Kaur (respondent No.5) and Jasbir Singh (respondent No.6), on the basis of natural succession.

2.2 It transpires that an appeal filed by above-said Smt. Paramjit Kaur, against order dated 30.06.2009 (Annexure P-4) was dismissed by the learned Collector, Ludhiana, vide his order dated 22.01.2010 (Annexure P-5). A further revision petition filed by Smt. Paramjit Kaur, before the learned Divisional Commissioner, Patiala Division, Patiala was also dismissed, vide order dated 25.02.2014 (Annexure P-7).

2.3 It further transpires that above-said Smt. Paramjit Kaur, expired on 23.06.2014; whereupon, the present petitioner (Balwinder Singh) filed a revision petition (**ROR-375-2014**) before the learned Financial Commissioner, Punjab, by claiming himself to be the legal heir of deceased Smt. Paramjit Kaur. The afore-said revision petition (**ROR-375-2014**) was also dismissed on 01.03.2018 (Annexure P-9) by the learned Financial Commissioner (Appeals), Punjab. Thereafter, the present

petitioner-Balwinder Singh, filed an application for review of order dated 01.03.2018 (Annexure P-9), which was also dismissed by the learned Financial Commissioner (Appeals), Punjab, vide order dated 30.01.2024 (Annexure P-11). Hence, the present petition.

3. Heard.

4. The learned Financial Commissioner (Appeals), Punjab, while dismissing the review application, vide order dated 30.01.2024 (Annexure P-11), has held as under :-

“6.... In the present case, the petitioner/review applicant is claiming himself to be legal heir of the deceased Paramjit Kaur being brother and alleged that the deceased Baldev Singh had performed the second marriage with his sister. But the civil court vide its order dated 25.07.2008 and the appellate court of Additional District Judge, Chandigarh has held that “In the present case, admittedly, the second marriage was performed on 12.02.1987 and as such, the said marriage was performed by the plaintiff with the deceased Baldev Singh in the life time of Smt. Balwinder Kaur his first wife and as such, it cannot be said to be a legal and valid marriage. So, prima-facie it cannot be said that plaintiff-appellant is entitled to any share from the pension of the deceased. Thus, the civil court has held that being a second wife, Paramjit Kaur was not entitled to any relief.” Moreover, while dismissing the revision of the petitioner/applicant, the Ld. Predecessor Court has observed that deceased Paramjit Kaur forged the Will in dispute after obtaining the fact that being 2nd wife she cannot inherit the property as no divorce has been effected with the 1st wife who is alive. It is clear from the facts and circumstances of the case that the Will in dispute is after thought, nothing else. Therefore, after careful examination of the order of the courts below as well as the order dated 01.03.2018, passed by the Ld. Predecessor Court, I am of the view that the petitioner is unnecessary litigating the

matter and there is nothing new brought to the knowledge of this court for which a review powers as prescribed under section 15 of the Punjab Land Revenue Act, 1887 can be exercised. If the present review application is allowed, it would involve re-examining the material produced and contentions raised by the parties, for which review jurisdiction cannot be exercised.

7. Resultantly, the review application is dismissed. Copy of this order be communicated to the courts below. File be consigned to the record room.”

5. A perusal of the above extracted findings/observations made by the learned Financial Commissioner, would manifest that vide order dated 25.07.2008, the Court of learned Additional District Judge, Chandigarh, had held that the second marriage performed by deceased-Baldev Singh with Smt. Paramjit Kaur, was during the life time of his first wife namely, Smt. Balwinder Kaur and therefore, it cannot be said to be a legal and valid marriage. It is, accordingly, held by the Civil Court that being the second wife, Smt. Paramjit Kaur was not entitled to any relief.

6. The petitioner has conveniently concealed the orders passed by the Civil Court. Rather in para 9(x) of the petition, a plea is being sought to be raised that no civil suit has been decided against the petitioner. However, I do not find any merit in the said plea because the petitioner is litigating by claiming himself to be the brother of Smt. Paramjit Kaur, who had claimed herself to be the wife of late Sh. Baldev Singh. Apparently, the Civil Court has rejected the claim of Smt. Paramjit Kaur. Learned Financial Commissioner, vide order dated 01.03.2018 found the alleged Will to be shrouded with doubts as Sh. Baldev Singh, expired on 28.06.2007 and Will is alleged to be of 16.06.2007 i.e. within a gap of ten days between the alleged Will and death of Baldev Singh.

7. Once Smt. Paramjit Kaur had lost her claim before the learned Civil Court, then the petitioner, who claim himself to be the brother of Smt. Paramjit Kaur cannot be permitted to re-agitate the matter before the Revenue Authorities.
8. Considering the totality of circumstances, I find no merit in the present writ petition and the same is, accordingly, dismissed.
9. All pending applications (if any) shall also stand closed.

December 11, 2024
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(HARSH BUNGER)
JUDGE

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