

126 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-33927-2024 (O/M)

Date of decision : 17.12.2024

Ranjit Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. J.K. Singla, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG Punjab.

Ms. Kashish Garg, Advocate
for respondent No. 6.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Ranjit Singh) has filed the instant civil writ petition under Articles 226/227 of the Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside the order dated 06.11.2013 (Annexure P-3), passed by learned Assistant Collector 1st Grade, Sardulgarh, whereby mutation No. 6156 of village Fatehpur regarding inheritance of late Shri Mana Singh son of Shri Sham Singh was ordered to be sanctioned in favour of natural heirs of deceased Mana Singh. A further prayer has been made for setting aside order dated 20.02.2015 (Annexure P-4), passed by learned Collector, Mansa; order dated 14.03.2018 (Annexure P-5), passed by learned Commissioner, Faridkot Division, Faridkot and order dated 01.08.2023 (Annexure P-9)

and order dated 19.01.2024 (Annexure P-11), passed by learned Financial Commissioner (Appeals), Punjab.

2. Briefly, mutation No. 6156 of village Fatehpur was entered regarding succession to the estate of deceased Mana Singh on the basis of a Will No. 14, dated 17.04.2012, propounded by the present petitioner. The said mutation was contested by respondent No. 6-Joginder Singh. Since the mutation was contested, the same was put up before the learned Assistant Collector 1st Grade-cum-Sub Divisional Magistrate, Sardulgarh, who vide his order dated 06.11.2013 (Annexure P-3) found the Will, propounded by the petitioner-Ranjit Singh, suspicious and directed that the mutation be sanctioned in favour of natural heirs of deceased Mana Singh.

2.1 An appeal filed by the petitioner against the above referred order dated 06.11.2013 (Annexure P-3) was dismissed by learned Collector, Mansa, vide order dated 20.02.2015 (Annexure P-4). A further revision filed by the petitioner before the learned Commissioner, Faridkot, was also dismissed vide order dated 14.03.2018 (Annexure P -5) by observing as under :-

“ I have considered the arguments of both the parties and perused the record of the case. Manna Singh died issueless and unmarried. The appellant Ranjit Singh son of Lachhman Singh is nephew of deceased Manna Singh. The mutation no. 6156 village Fatehpur, Tehsil Sardulgarh, District Mansa was entered by the Patwari halqa on 25.8.2012 on the basis of Will dated 15.12.1999 in favour of Joginder Singh, Ranjit Singh sons and Ranjit kaur daughter of Lachhman Singh. The will dated 15.12.1999 was an unregistered will which was got

registered by the beneficiaries on 17.4.2012 after the death of Manna Singh. The execution of the will has not been proved by the statements of the scribe and attesting witnesses because there are discrepancies in their statements. In the court file of SDM-cum-A.C-1st Grade, there is another photocopy of unregistered will dated 8.12.1999, scribed by Nachattar Singh and witnessed by Mangal Singh and Dilbara Singh in favour of the appellant, his brother Joginder Singh and his sister Ranjit Kaur and the signature of Manna Singh on the will dated 8.12.1999 and 15.12.1999 do not tally with each other and are all together different which makes the will in question highly doubtful. The execution of the will has not been proved as required under the Indian Evidence Act and the same is forged and fabricated document prepared after the death of Manna Singh in order to grab the property of the deceased. The un-registered will has to be ignored in case of even Slightest doubt regarding the genuineness which has rightly been done in the present case. Hence, I find no illegality or irregularity in the concurrent findings of the two courts below and as such the revision petition is dismissed being without merit.

File be consigned in the record room after due compliance.”

2.2 Thereafter, the petitioner preferred a revision petition (ROR-282-2019) before the learned Financial Commissioner (Appeals), Punjab. During the pendency of the aforesaid revision petition, the present petitioner filed an application stating that the matter has been amicably settled with the intervention of the respectable persons of the village and respondent No. 6-Joginder Singh has furnished an affidavit dated 24.08.2021 (Annexure P-7) admitting the contents of the

compromise as well as the Will, therefore, the revision petition be disposed of in terms of the compromise.

2.3 It transpires that the learned Financial Commissioner (Appeals), Punjab, vide order dated 01.08.2023 (Annexure P-9), allowed the prayer of the counsel for the petitioner to withdraw the case, accordingly, the revision petition (ROR-282-2019) was dismissed as withdrawn.

2.4 Thereafter, the petitioner preferred an application (Misc. 98/2023 in ROR No. 282 of 2019) seeking modification of order dated 01.08.2023 (Annexure P-9) with a further prayer that the revision petition be disposed of as per the compromise between the parties and for further directing the revenue authorities for sanctioning mutation No. 6156 on the basis of Will dated 15.12.1999. However, the aforesaid application (Misc. 98/2023 in ROR No. 282 of 2019) was dismissed by the learned Financial Commissioner (Appeals), Punjab by observing that the petitioner may approach the civil court.

3. In the aforementioned circumstances, the petitioner has filed the instant civil writ petition for the relief(s), as noticed above.

4. I have heard learned counsel for the petitioner and have also perused the paperbook with his able assistance.

5. A Division Bench of this Court in the case titled as ***Jagjit Singh versus Divisional Commissioner, Patiala and others reported as 2012 (13) RCR (Civil) 96***, held that since, the mutation proceedings are summary in nature and are in exercise of administrative functions, therefore, such proceedings do not create or extinguish any right or title

in the land and the right or title in the property is to be decided by the Civil Court.

5.1 A Single Bench of this Court in case titled as ***Gurdish Singh and another versus Financial Commissioner, Revenue, Punjab and others, 2009 (30) RCR (Civil) 176***, had held as under:-

"5.The civil Court in fact is the proper forum for adjudication as regards the validity of the Will. This Court in exercise of its supervisory writ jurisdiction under Articles 226/227 of the Constitution of India is not to embark upon an inquiry and determine whether the Will (Annexure-P.1) is genuine or otherwise. The Will is to be proved in accordance with the provisions of section 63 of the Indian Succession Act, 1925. A will is to be proved by examining the marginal witnesses, the scribe and the propounder etc. as the case may be. This exercise is not to be carried out by this Court in exercise of its supervisory writ jurisdiction. The recording of witnesses and their cross-examination is to be conducted by the civil Court. Section 45 of the Act envisages that if any person considers himself aggrieved as to any right of which he is in possession by any entry in record of rights or any annual record he may institute a suit for declaration of his right under Chapter-VI of the Specific Relief Act, 1877 (now Specific Relief Act, 1963)....."

6.Therefore, no interference of this Court is called for in exercise of its extra-ordinary jurisdiction and mutation entries in the revenue record are to be done in accordance with the adjudication of the civil Court."

5.2 In ***Dev Raj Singh versus State of Punjab, 2010 (2) RCR (Civil) 357***; a co-ordinate bench of this court had held as under:-

“4. After giving my thoughtful consideration to the matter and perusing the record, it may be noticed that the case relates to sanction of mutation on the basis of natural succession or registered Will which requires the appreciation and consideration of evidence. This Court in exercise of its supervisory writ jurisdiction under Articles 226/227 of the Constitution of India is not to go into the veracity of the evidence and reach a conclusion as to whether the Will set up by the petitioners is duly proved or whether the mutation was liable to be sanctioned on the basis of natural succession. Sanction of mutation as is well known does not determine the rights or title to the property. These are entered only for fiscal purpose of updating the record for the purpose of ascertaining the land revenue payable. Besides, mutation proceedings are summary in nature and technicalities of law which extinguish or confer some right on a party is not to be gone into. The question as regards the validity of the Will are to be determined and gone into in a duly instituted civil suit. Therefore, if mutation has sanctioned in favour of Sajjan Singh (respondent No. 6) the same does not by itself determine any question of right and title. The mutation proceedings having no judicial character and the only object being to update the revenue record the mere fact that mutation has been sanctioned in favour of respondent No. 6, does not vest title in him. The rights, question of title and validity of Will are to be determined by the regular civil Courts after evidence has been led in support or otherwise of the Will that is set-up by the petitioners. Accordingly, the petitioners are relegated to the remedy of civil suit and the writ petition is clearly not maintainable.

5. Accordingly, the writ petition filed by the petitioners is dismissed. However, this would not preclude the petitioners to avail their civil remedy by filing a duly instituted suit...”

5.3 A perusal of the above judgment(s) would show that a civil Court is the proper forum for adjudication as regards the validity of a Will is concerned and that a Writ Court in exercise of its supervisory writ jurisdiction under Articles 226/227 of the Constitution of India in proceeding emanating from mutation proceedings is not to embark upon an inquiry and determine whether a Will is genuine or otherwise and the recording of witnesses and their cross-examination is to be conducted by the civil Court and the mutation entries in the revenue record are to be done in accordance with the adjudication of the civil Court.

6. Upon giving my thoughtful consideration to the matter, it is noticed that the case relates to sanctioning of mutation No. 6156 as regards succession to the estate of one Sh. Mana Singh son of Shri Sham Singh (who is claimed to be the brother of the petitioner's grandfather). Petitioner claims succession to the estate of Shri Mana Singh on the basis of an alleged Will dated 15.12.1999, which was concededly an unregistered will but was registered on dated 17.04.2012 i.e. subsequent to the death of Sh. Mana Singh on 08.01.2000.

6.1 The respondent no. 6 herein had objected to the sanctioning of mutation on the basis of aforesaid will. The revenue authorities below have ordered sanctioning of mutation on the basis of natural succession after finding the will dated 15.12.1999 (Annexure P-1) to be suspicious.

6.2 It transpires that during the pendency of proceedings before the Financial Commissioner and after the death of Ranjit Kaur (sister of petitioner and respondent no. 6), a consensus has been arrived at between the parties for getting the mutation sanctioned on the aforesaid will

dated 15.12.1999 (Annexure P-1), however, the learned Financial Commissioner has not accepted the plea of the petitioner by observing that the petitioner may approach the civil court.

7. In my considered view, since the question as regards the validity of the Will, is to be determined and gone into in a duly instituted civil suit and the rights, question of title and validity of Will are to be determined by the regular civil Courts after evidence has been led in support or otherwise of the Will that is set-up by the petitioner, I find no compelling reason to interfere in the impugned orders passed by the revenue authorities below.

8. Resultantly, the instant writ petition fails and the same is accordingly dismissed. The petitioner may (if so advised), avail his civil remedy, in accordance with law.

9. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

17.12.2024
sjks

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