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

CWP-3632-2023 (O & M)
Reserved on: 27.02.2025
Pronounced on: 01.04.2025

**AVIRAJ SINGH (MINOR) THROUGH HIS MOTHER
CHIRANTANA KUMARI**Petitioner

Versus

STATE OF HARYANA AND OTHERSRespondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Argued by: Mr. M.S.Khaira, Senior Advocate with
Mr. Jaswinder Singh, Advocate
for the petitioner.

Mr. Ankur Mittal, Addl. A.G., Haryana.
Mr. P.P.Chahar, Sr. DAG, Haryana.
Mr. Saurabh Mago, DAG, Haryana.
Mr. Karan Jindal, Asstt. A.G., Haryana.

Mr. P.S.Chauhan, Advocate
Mr. Ankur Mittal, Advocate
Ms. Kushaldeep Kaur, Advocate
Ms. Saanvi Singla, Advocate and
Mr. Siddharth Arora, Advocate
for respondent – HSVP.

Mr. Satyaveer Singh, Advocate
for respondent No. 6.

Mr. Sumeet Mahajan, Senior Advocate with
Mr. Y.S.Chandail, Advocate
Ms. Shruti Singla, Advocate and
Mr. Shrey Sachdeva, Advocate
for respondents No. 7 to 9.

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SURESHWAR THAKUR, J.

1. Through the instant writ petition, the petitioner herein prays for quashing of the orders dated 23.01.2023 (Annexures P-13 and P-14), as passed by the Executing Court concerned, in Execution Petitions bearing Nos. EXE-312-2021 and EXE-461-2021, whereby the objection petition filed by the petitioner has been dismissed.

Sequence of events.

2. The land in question measuring 656 acres failing in revenue village of Ramgarh, HB 232, Tehsil and District Panchkula, was acquired by notification under Section 4 of the Land Acquisition Act, 1894, (hereinafter for short called as the Act of 1894), for public purpose namely for the development and utilization of land as residential, commercial and institutional area in the urban estate of Panchkula. The Land Acquisition Collector passed an award of compensation for the aforesaid land.

3. Feeling dis-satisfied from the awarded rate of compensation, thereupons, the land losers namely Smt. Premwati widow of Mohinder Singh and Mohan Singh son of Ajmer Singh, thus, filed reference(s) under Section 18 of the Act of 1894. Smt. Premwati died on 12.06.1994 after the filing of the reference petition.

4. The learned Additional District Judge, Ambala/Reference Court decided the aforesaid reference. 50 % of the total amount of compensation was received by Mohan Singh and rest of the 50 % of

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Smt. Premwati widow of Mohinder Singh was deposited in the Court of learned Additional District Judge, Ambala.

5. Further, this Court remanded the case to the Reference Court for re-adjudication. After remand, the learned Reference Court decided LAC No. 218 of 2000 vide award dated 24.08.2009.

6. It is apt to mention here that on 22.02.1999, Tika Amar Singh (grandfather of petitioner Aviraj Singh) filed a civil suit bearing No. 36/1999, whereby, he claimed the rendition of a declaratory decree and also claimed the rendition of a decree for permanent prohibitory injunction in respect of the already acquired subject lands. The said relief was claimed on the ground that the petitioner being the eldest male in the line of succession to the estate of the deceased predecessor in interest, thereby, on applying the rule of primogeniture, he alone becomes entitled to inherit the estate of the deceased predecessor-in-interest, who is common to all concerned. However, the said civil suit became dismissed by the learned Civil Judge vide judgment and decree dated 30.08.2010 (Annexure R-9/1).

7. Feeling aggrieved, Amar Singh filed a first appeal thereagainst. The said appeal became dismissed by the learned Additional District Judge, Panchkula vide order dated 08.02.2012 (Annexure R9/2).

8. Thereafter, Amar Singh (grandfather of the petitioner) filed RSA No. 2258 of 2012 before this Court, whereby, he laid a challenge to the supra passed verdicts by the Courts below. The said RSA became

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dismissed by this Court vide order dated 26.04.2017 (Annexure R-9/3), wherebys, the judgments and decrees (supra) rendered by both the learned Courts below became upheld, wherebys, the therein claimed applicability to the apposite estate vis-a-vis the rule of primogeniture thus became rejected.

9. Feeling dis-satisfied from the concurrent dis-affirmative orders, Amar Singh filed SLP before the Apex Court. However, the said SLP became dismissed by the Apex Court vide order dated 02.08.2017 (Annexure R-9/4).

10. Further, it is pertinent to mention here that Ashutosh Singh Chandel, father of the petitioner, also filed a civil suit seeking permanent injunction, through re-raising the applicability to the apposite estate, thus the rule of primogeniture, as became earlier raised by his father Amar Singh in the supra civil suit. In the said suit, Ashutosh had impleaded his grandfather Mohan Singh, his father Amar Singh, and Raj Kumar, Jaivinder Singh, Yaswinder Singh as respondents.

11. In the said suit an application under Order 7 Rule 11 CPC became filed by Raj Kumar which was allowed vide order dated 28.01.2014 and it was held that the suit is hit by the bar of *res judicata* and accordingly the said civil suit became dismissed.

12. Feeling aggrieved, Ashutosh Chandel filed an appeal thereagainst before the Additional District Judge, Panchkula. The said appeal became dismissed vide order dated 04.08.2014.

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13. Thereafter, aggrieved by the dismissal of the appeal, Ashutosh Chandel filed RSA bearing No. 547 of 2015 before this Court. The said RSA was dismissed as withdrawn vide order dated 05.05.2023. Therefore, both the civil suits, wherein, relief for exclusive succession to the apposite estate was claimed by the plaintiffs, rather through applying thereons the rule of primogeniture, thus became dismissed. However, the objections in consonance with the said rejected claim yet became raised before the learned Executing Court. The said objections become rejected.

Proceedings before the Executing Court.

14. An application was filed by Mohan Singh (great grandfather of the petitioner) for release of 75 % of the compensation awarded being his share (50 % share was his own and 25 % being entitled to 50 % share of Premvati's share being her legal heir). The said application was allowed vide order dated 15.10.2011 (Annexure R-9/5), to the extent of his own share.

15. Late Sh.Raj Kumar decree holder, as legal representative of Late Premwati filed execution application with respect of 50 % share of Smt. Premwati on 06.05.2019. Further, respondents No. 7 to 9 filed Execution Application No. 312 of 2021 (as legal representative of Late Raj Kumar) with respect to 50 % share of Smt. Premvati.

16. The petitioner namely Aviraj (minor) son of Ashutosh Singh through his mother filed third party objections under Section 47

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read with Section 151 CPC opposing payment of share of Sh. Late Raj Kumar on the principle of primogeniture.

17. The said objections filed by the petitioner in the execution petition became dismissed by the Executing Court vide order dated 23.01.2023.

18. Feeling aggrieved from the afore dis-affirmative order passed in the execution petition by the Executing Court concerned, the petitioner has filed thereagainst the instant writ petition before this Court.

For the reasons to be assigned hereinafter, the orders of rejection made by the learned Executing Court concerned, upon, the apposite objection petition(s) are validated, and, the present writ petition challenging the orders dismissing the objection petition(s), thus is dismissed.

19. The order dismissing the objections filed by the petitioner, order whereof becomes extracted hereinafter, appears to become well banked upon the supra binding and conclusive decisions passed by the Courts of law. The relevant part of the impugned order (Annexure P-13) becomes extracted hereinafter.

5. The objector is the son of Shri Ashutosh Singh Chandel. Learned counsel for the applicants has placed on record copy of the order dated 28.01.2014 passed in the Civil Suit titled as Ashutosh Singh Chandel Vs. State of Haryana etc. by the Court of Ms. Roopam Singh, the then learned Civil Judge (Sr.Divn.), Panchkula. A perusal of the said order dated 28.01.2014 would show that the application under Order-7 Rule-11 of CPC filed by the defendants in the said civil suit was allowed and the said civil suit was dismissed. Learned counsel for the applicants has also placed on record copy of order dated 04.08.2014 passed in Civil Appeal No. 14 of 2014 by the Court of Shri Rajnish K. Sharma, the then learned Additional District Judge,

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Panchkula. Said appeal was preferred against the order dated 28.01.2014 as referred to above. A perusal of the order dated 04.08.2014 passed by the learned Appellate Court would show that in the suit one of the grounds taken by the appellant Ashutosh Singh Chandel for a decree of declaration was that the Jagir estate was heritable only as per the rule of primogeniture in male line and the partition effected by Miya Ajmer Singh during his life time was illegal, null and void. The said contention was not accepted by the learned Appellate court and the appeal filed by said Ashutosh Singh Chandel was dismissed vide the order dated 04.08.2014. In other words, the rule of primogeniture set up by the father of the objector namely Ashutosh Singh Chandel was neither accepted by the learned trial Court nor the learned Appellate Court as is evident from the orders referred to above.

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8. The above discussion would make it clear that, firstly, the grandfather of the objector namely Tikka Amar Singh set up the rule of primogeniture in their family of Ramgarh but he could not establish the same upto the level of Hon'ble High Court of Punjab and Haryana at Chandigarh and Hon'ble Supreme Court of India. Thereafter, the father of the objector namely Ashutosh Singh Chandel initiated the litigation predicating the same on the rule of primogeniture but without any success. Now the objector Aviraj Singh has come up with the plea that the rule of primogeniture is applicable to his family but then the said question has already been determined upto the Hon'ble Apex Court by which the SLP No. 18910 of 2017 has been dismissed vide the order dated 02.08.2017.

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10. For the reasons recorded above, the objections filed by the objector Aviraj Singh are false and frivolous to his knowledge. The objections are filed with the objective to delay the proceedings and said objections are sheer abuse of the process of law. Resultantly, the objections filed by the objector Aviraj Singh are hereby dismissed with costs of Rs.2000/- to be paid in District Legal Services Authority, Panchkula by the guardian of the objector Aviraj Singh. Ordered accordingly.

20. Since the objections, whereons, an order of dismissal was passed, appertained to grounds similar to the one which became raised by the petitioner- objector, in the previously drawn civil proceedings,

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which culminated in a decision adversarial to the objector becoming passed. Therefore, the re-canvassings by the petitioners/objectors, thus, of those grounds which become covered by the previously recorded conclusive and binding decisions, is but a stark portrayal of gross abuse of the process of law.

21. Therefore, after affirming the orders passed in the execution petition(s) (supra), wherebys, the objections filed by the petitioner became dismissed, thus the instant writ petition is dismissed with imposition of costs of Rs. 2 Lakhs, to be deposited by the present petitioner (through his guardian) with the Treasurer of the Punjab and Haryana High Court Bar Clerks Association, Chandigarh.

22. Since the main case itself has been decided, thus, all pending applications, if any, are disposed of as such.

(SURESHWAR THAKUR)
JUDGE

01.04.2025
kavneet singh

(VIKAS SURI)
JUDGE

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