

142 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9096-2025 (O/M)
Date of decision : 01.04.2025

Suresh Kumar Kataria and another Petitioners

Versus

State of Punjab and others Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr.Rahul Malik, Mr. Harsimrat Singh Randhawa, Advocates
for the petitioners.

Mr. Navneet Singh, Senior DAG Punjab.

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HARSH BUNGER, J. (ORAL)

1. Prayer in the instant civil writ petition filed under Article 226 of Constitution of India, inter alia, is for issuance of a writ in the nature of certiorari or any other appropriate writ, order or direction for annulling and setting aside the incorrect and illegal entries recorded, vide mutation No. 2537 dated 02.03.2016 (Annexure P-4) of village Hadbast No. 219, Tehsil Jalalabad, District Fazilka, being contrary to judgment dated 03.12.2013 (Annexure P-1), passed by this Court in RSA No. 1700 of 1984 .

1.1 A further prayer has been made for quashing the letter dated 22.02.2024 (Annexure P-11), issued by the Tehsildar, Jalalabad and further setting aside the order dated 31.12.2024 (Annexure P-16), passed by learned Deputy Commissioner, Fazilka.

2. Briefly, petitioner No. 1 herein, namely, Suresh Kumar Kataria, alongwith his sibling, are stated to be co-owners of ancestral property measuring 372 Kanals – 3 Marlas, situated in village Kathgarh, Tehsil Jalalabad, District Fazilka. It is stated that the aforesaid property has been inherited by the petitioners from their ancestor, namely, Dayal Chand son of Jhanda Ram.

2.1 It appears that there was some dispute as regards the shares held by various successors of Dayal Chand, which led to the filing of Civil Suit No. 117/1 and ultimately, the matter came up before this Court in RSA No. 1700 of 1984, which came to be decided, vide judgment dated 03.12.2013 (Annexure P-1).

2.2 It is the case of the petitioners that while giving effect to the aforesaid judgment dated 03.12.2013 (Annexure P-1), passed by this Court in RSA No. 1700 of 1984, the revenue authorities illegally and arbitrarily entered and sanctioned mutation No. 2537 on 02.03.2016, wherein the names of the rightful heirs including the descendents of one Karam Chand and Jai Devi, which includes the petitioners also, were omitted.

2.3 It transpires that on the basis of the entries in mutation No. 2537, certain third party transactions have been carried out; which is apparent from a bare reading of para 10 of the writ petition, which is as under :-

“10. That the defective Mutation Entry No. 2537 provided an opportunity for unauthorized individuals to exploit the petitioners' exclusion. The shareholding in the property was required to be reflected in the impugned mutation records in

accordance with the Decree and shockingly, in 2015, third parties Jagbir Singh and Amandeep Kaur allegedly acquired portions of the property by executing sale deeds with Virender Kataria, an individual without a legitimate claim over the property, who was only owner of a part of the undivided property but never to the extent as claimed in the mutation records. These transactions were conducted at nominal prices, indicating that the buyers, acting in concert with certain revenue officials, likely recognized the dubious legality of these acquisitions. These unlawful transactions stand as a clear violation of the petitioners' vested rights, as no legal partition of the property among rightful co-owners had been conducted, nor had any court sanctioned such transfers. The subsequent mutations based on these void transactions contravened the binding High Court judgment and were undertaken without the petitioners' consent, thereby compounding the infringement on his legally recognized inheritance.”

2.4 It appears that the petitioner has already taken recourse to his remedies, as stated in paras 11 and 14 of the writ petition, which read as under :-

“11. That upon learning of these illegal transactions and the defective mutation, the petitioner engaged in exhaustive efforts to rectify the administrative records. Between March and August 2022, the petitioner submitted more than twenty-five formal complaints and representations to various administrative authorities, including the Deputy Commissioner, Tehsildar, SDM and SSP, some of which are listed as under :

- i. to the Deputy Commissioner dated 16.03.2022,*
- ii. to the Tehsildar dated 17.03.2022,*
- iii. to the Deputy Commissioner dated 09.05.2022,*
- iv. to the SSP, Fazilka dated 09.05.2022,*

- v. *to the SDM dated 18.06.2022*
- vi. *notices dated 27.07.2022 and 08.08.2022 to the Deputy Commissioner and higher authorities.*

12 and 13. xxxxx xxxxx xxxxx xxxxx xxxxx

14. *That will all administrative remedies exhausted, the petitioner filed a police complaint on 09.05.2022 to address the malfeasance in the mutation entry. The complaint was registered after the investigation by SSP, Fazilka as FIR No. 93 on 19.05.2023 at Police Station Jalalabad. The FIR accused various revenue officials of criminal conspiracy, forgery, and aiding unauthorized transactions, citing section 420 (Cheating), 465 (Forgery), 467 (Forgery of Valuable Security), 468 (Forgery for the Purpose of Cheating), and 120 B (Criminal Conspiracy) of the Indian Penal Code. The petitioner alleged that these officials, in collusion with third parties, had intentionally manipulated mutation records to exclude rightful heirs and facilitate unauthorized transfers.”*

2.5 It further transpires that the petitioner had served a legal notice dated 09.12.2023 (Annexure P-10) and subsequently, vide letter dated 22.02.2024 (Annexure P-11), the Tehsildar, Jalalabad directed the petitioner to approach the court of competent civil court for seeking redressal of his grievance.

2.6 Apparently, the petitioner approached this Court by filing a CWP No. 14149 of 2024, which came to be disposed of, vide order dated 31.05.2024 (Annexure P-13) by observing as under :-

“5. In view of the submissions made by learned counsel for the petitioner, the present petition is disposed of with a direction to respondent No. 3 i.e. the Deputy Commissioner, Fazilka to decide the legal notice/representation of the petitioner dated 09.12.2023 (Annexure P-8) in accordance

with law within a period of three months from the date of receipt of certified copy of this order. The respondents authorities would be at liberty to give personal hearing to the petitioner and the relevant persons, if they are concerned with the present case.”

2.7 In compliance of the aforesaid directions issued by this Court, the Deputy Commissioner, Fazilka, decided the legal notice dated 09.12.2023 (Annexure P-10), submitted by the petitioner, vide order dated 31.12.2024 (Annexure P-16), the relevant extracts of which read as under :-

“ Therefore, after considering all the above facts, circumstances and record on file, I Amarpreet Kaur Sandhu, IAS, Deputy Commissioner, Fazilka have come to the conclusion that the mutation No. 2537 is very old one and the persons became owners by virtue thereof, have further alienated a lot of area to different persons as mentioned above, therefore, as per provisions contained in para No. 7.30 of Punjab Land Record Manual, it would not be proper and feasible to incorporate or sanction any amendment in mutation qua mutation No. 2537 dated 02.03.2016. Therefore, it would be proper for the petitioner to file execution of order dated 15.12.1982 before the court of competent jurisdiction for the redressal of his grievance.”

2.8 In the aforementioned circumstances, present writ petition has been filed.

3. During the course of hearing, a query was raised to learned counsel for petitioners as to whether any execution proceedings were initiated in respect of judgment dated 03.12.2013 (Annexure P-1), passed by this Court in RSA No. 1700 of 1984 and it was stated that one

execution petition is already pending consideration before the concerned court.

4. Keeping in view the fact that execution in respect of judgment dated 03.12.2013 (Annexure P-1), passed by this Court in RSA No. 1700 of 1984, is already pending consideration before the concerned court, I find no compelling reason to entertain this writ petition as the petitioners would be at liberty to raise all the pleas raised herein before the executing court. Accordingly, the instant civil writ petition is dismissed, leaving it open to the petitioners to raise all pleas/submissions, as sought to be raised in the instant civil writ petition, before the executing court.

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

(HARSH BUNGER)
JUDGE

01.04.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No