



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

**CWP No. 10798 of 2025
Date of Decision: 26.09.2025**

Baba Gurbinder Singh

....Petitioner

vs.

Financial Commissioner Appeals Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sunil Chadha, Senior Advocate with
Mr. B.S.Seemar, Advocate
Ms. Devyanshi Sharma, Advocate
for the petitioner

Mr. Aman Dhir, DAG, Punjab

Mr. Amit Jain, Senior Advocate with
Mr. Naveen Bawa, Advocate
Mr. Parit Aggarwal, Advocate
for respondents No. 3 and 4

JAGMOHAN BANSAL, J. (ORAL)

1. On 12.08.2025, the following order was passed:-

“ xxx xxx xxx

Inter alia contends that Collector by impugned order reviewed order of Assistant Collector Grade-I with respect to mutation of lease deed. The order of review was passed in terms of Section 15 of Punjab Land Revenue Act, 1887 (in short '1887 Act'). As per said provision, application seeking review could be filed within 90 days whereas application in the instant case was filed after 25 years. The



private respondents raised the issue before Civil Court and dragged the matter up to this Court. Thus, there was no occasion for the Collector to review the order passed by Assistant Collector. The Financial Commissioner (Appeals) has mechanically dismissed revision under Section 16 of 1887 Act.

Notice of motion.

Mr. Aman Dhir, DAG Punjab and Mr. Naveen Bawa, Advocate, who on advance notice are present in Court accept notice on behalf of State and private respondents, respectively. Mr. Naveen Bawa, Advocate filed memo of appearance on behalf of respondents No.3 and 4. The same is taken on record. Registry is directed to tag the same at an appropriate place. They pray for time to file the reply and address the arguments.

The State in its reply would clarify whether Collector can review an order passed by Assistant Collector and whether mutation of lease deed falls within expression 'order'.

Adjourned to 04.09.2025.

To be taken up at 02:30 PM.

In the meantime, status quo shall be maintained.”

2. Mr. Amit Jain, Sr. Advocate submits that petitioner for the relief sought herein has filed civil suit which is pending before Civil Judge (Junior Division), Amritsar. In the said suit, the petitioner has categorically doubted legality of order dated 26.02.2008 which is impugned herein.

3. Faced with this, Mr. Sunil Chadha, Senior Advocate submits that petitioner has filed civil suit qua one mutation and no civil suit has been filed qua other mutations. Final relief sought is different in both the proceedings.

4. In view of pendency of civil suit with respect to land in question and the fact that petitioner has specifically made averments with respect to



legality of order dated 26.02.2008 which is impugned herein, this Court is of the considered opinion that instant petition is not maintainable. It is apt to notice that petitioner has not disclosed this fact in the writ petition whereas respondents, during the course of hearing, have disclosed this fact.

5. Hon'ble Supreme Court in ***State of Orissa and another vs. Laxmi Narayan Das (Dead) through LR's and others, (2023) 15 SCC 273*** has held even to the extent that if civil suit filed for same relief was withdrawn without liberty to file fresh one, writ petition is not maintainable. The relevant extracts of the judgment read as:-

*“37. On the question, as to whether after the withdrawal of a suit claiming the same relief without having permission to institute fresh one for the same relief, a writ petition will be maintainable before the court, the guidance is available from the judgment of this Court in ***M.J. Exporters (P) Ltd. v. Union of India, (2021) 13 SCC 543***, wherein the principle of constructive res judicata was applied. The case concerns a litigant who sought to file a fresh writ petition after withdrawal of the earlier writ petition filed for the same relief without permission to file fresh one. The court held that the principles contained in Order 23 Rule 1CPC are applicable even in writ proceedings. Para 15 thereof is extracted below :*

“15. In these circumstances, we feel that when this issue was raised and abandoned in the first writ petition which was dismissed as withdrawn, the principles of constructive res judicata which are laid down under Order 23 Rule 1 of the Code of Civil Procedure, 1908, and which principles are extendable to writ proceedings as well as held by

this Court in Sarguja Transport Service v. STAT, (1987) 1 SCC 5.”

38. Having regard to the principles laid down in M.J. Exporters (Supra), in our view, applying the principles of constructive res judicata, the present writ petition filed by the respondents after withdrawal of the civil suit, was not maintainable, in the sense that it ought not to have been entertained. In case the respondents still wanted to justify filing of the writ petition, they should have at least disclosed complete facts and then justified filing of the writ petition."

6. In the wake of above discussion and findings, this Court is of the considered opinion that instant petition deserves to be dismissed and accordingly dismissed.

7. The dismissal of instant petition would have no bearing on the pending civil suit.

(JAGMOHAN BANSAL)
JUDGE

26.09.2025
paramjit

Whether speaking/reasoned:	Yes	
Whether reportable:		No