

(2012) 08 P&H CK 0242

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 19827 of 2009

Milkha Singh and others

APPELLANT

Vs

Financial Commissioner,
Revenue, Haryana, and others

RESPONDENT

Date of Decision: Aug. 21, 2012

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Advocate: Sukhbir Singh, for the Appellant; Kirti Singh, DAG, Haryana, for the State and Mr. Vikram Singh, Advocate, for the Respondent

Judgement

Ranjit Singh, J.

This order will dispose of Civil Writ Petition Nos. 19827, 19832 and 19845 of 2009 (Milkha Singh and others Vs. Financial Commissioner, Revenue, Haryana, Chandigarh and others). The facts are being taken from Civil Writ Petition No. 19827 of 2009. The petitioner purchased land measuring 39 kanals 19 marlas vide sale deed dated 19.5.1960. The mutation No. 508 was sanctioned in this regard in favour of the petitioners. This mutation was set-aside by the Assistant Collector Ist Grade on 4.4.1967. Thereafter mutation No. 584 was again sanctioned on 7.4.1976 as the petitioners had taken possession of the land. The petitioners' name had subsequently been entered into various jamabandies starting from 1978 to 2008. The petitioners accordingly moved an application for partition of land measuring 134 kanals 6 marlas bearing Khewat No. 62, Khatauni Nos. 71 and 72 as per jamabandi for the year 1993-94. Respondent Nos. 5 to 7 raised objections on the ground that mutation was wrongly sanctioned. These objections were rejected by the Assistant Collector IInd Grade on 17.7.1997. The appeal filed by respondent Nos. 5 to 7 was also dismissed on 27.5.1998 by the Collector. The revision was also dismissed by the Commissioner on 5.8.1998. Respondent Nos. 5 to 7 filed a petition before the Financial Commissioner, which was also dismissed on 15.11.1999. Thereafter, respondent Nos. 5 to 7 filed a writ petition before this Court, when the case was remanded. The Assistant Collector again dismissed the objections filed by

respondent Nos. 5 to 7. The Collector as well as the Commissioner again dismissed the appeal and the revision on 26.11.2001 and 1.8.2006 respectively. The Financial Commissioner this time again has interfered in the partition proceedings on the ground that there is some title dispute pending and the partition proceedings be adjourned sine-die till the question of title is decided.

2. In the impugned order, the Financial Commissioner has vaguely observed that the petitioners before him (respondents herein) have referred to some substantial evidence with regard to the manner in which the mutation proceedings were conducted at various stages. It is further observed that there exists a dispute regarding title and that a resolution of this is pending in the Civil Court. Counsel for the petitioners submits that there is no civil suit pending before any Civil Court. Counsel for respondent Nos. 5 to 7 could not point out if there is any civil suit pending. Otherwise also, the Financial Commissioner has vaguely referred to the dispute of title. If some mutation has been entered wrongly in the names of the petitioners that too in the year 1996, this ought to have been challenged by respondent Nos. 5 to 7. It may not be appropriate or even possible for respondent Nos. 5 to 7 to challenge the mutation in these partition proceedings. This mutation was sanctioned in favour of the petitioners long ago. Accordingly, the Financial Commissioner was not justified in making reference to not existent civil suit or to the dispute raised during partition proceedings as a dispute of title.

3. The order passed by the Financial Commissioner can not be sustained and is accordingly set-aside. The case is remitted back to the Financial Commissioner to re-decide the same by passing a fresh order in accordance with law. The Financial Commissioner would record a specific finding in regard to the pendency of any title suit or if mere challenge to mutation can be termed as a dispute about title of the land. The matter is pending since long and, thus, the Financial Commissioner is requested to deal with this case with priority and preferably dispose of the same within a period of three months from the date of receipt of certified copy of this order. The parties, through their counsel, are directed to appear before the Financial Commissioner on 3.9.2012.

The writ petitions are accordingly disposed of.