

(1990) 09 P&H CK 0135

High Court Of Punjab And Haryana At Chandigarh

Case No: ROR No. 10 of 1988-89

Sadhu Singh

APPELLANT

Vs

Harbhajan Kaur

RESPONDENT

Date of Decision: Sept. 10, 1990

Citation: (1991) PLJ 219 : (1991) 2 RRR 49

Hon'ble Judges: C.D Cheema, F.C.

Advocate: Mr. Arun Chandra, Advocate for Mr. Ravinder Chopra, Advocate, Mr. A.K. Gupta, Advocate., Advocates for appearing Parties

Judgement

C.D. Cheema, J.

The two revision petitions have been recommended by the Commissioner, Jalandhar Division filed before him under Section 26 of the Punjab Land Revenue Act, 1887 against the order of Collector, Batala dated 27.4.1987 whereby the Collector confirmed the order of A.C. IIInd Grade dated 3786. This single order will dispose of both the cases and a copy of the order should be placed on each file.

2. Brief facts of the case are that mutation No. 567 of village Annokot, H.B. No. 105, Tehsil Batala was entered and then sanctioned by A.C. IIInd Grade on 3.7.1986 in favour of respondent on the basis of registered sale deed dated 12.6.86. The petitioner filed an appeal against that order before the Collector, Batala who dismissed the appeal on 27.4.87. Thereafter Sadhu Singh filed a revision petition before the Commissioner, Jalandhar Division. In the second case mutation No. 566 was entered on the basis of registered sale deed dated 6.6.86 and was sanctioned in favour of respondent by A.C. IIInd Grade Batala on 3.7.86. This order was challenged by the petitioner before the Collector who dismissed the same on 27.4.87. Thereafter petitioner filed revision petitions before the Commissioner, Jalandhar Division, who has recommended the same for acceptance by this Court as the following irregularities have been noticed :

(i) No notice was given to the interested parties by the A.C. before sanctioning the mutations in question even if the sale deed was registered one. The factum of

possession was concealed.

(ii) Patwari halqa entered the mutations on 1.7.86 and A.C. IIInd Grade sanctioned the mutations on 1.7.86 hurriedly, although Kanungo halqa verified the mutations on a later date (viz. 13.7.1986).

(iii) Patwari halqa also concealed the facts by not entering entries of jamabandi in column No. 5 of the mutations concerned (copy of jamabandi at page 21 of the file No. 16, decided by Collector).

3. The learned counsel for the petitioner submitted that mutation cannot be sanctioned on the basis of registered sale deed if the possession has not been delivered to the vendee and cited 1972 PLJ 434 and 1986 PLJ 56 in support of his arguments. The learned counsel further submitted that Commissioner, Jalandhar Division has recommended the acceptance of the revision petition keeping in view the mandatory provision in the Punjab Land Revenue Act.

4. I have heard the learned counsel for both the parties and have gone through the record and the order of Commissioner, Jalandhar Division, dated 5.9.88 whereby he has recommended for setting aside the order of Assistant Collector IIInd Grade as well as that of Collector. As per ruling 1972 PLJ 34 and 1986 PLJ56 mutation cannot be attested without the transfer of the possession. This view has already been taken by this Court in ROR No. 612 of 198283 Smt. Pritam Kaur v. Madan Mohan decided on 22.8.1990 : 1990 PLJ 491. Apart from the fact about the haste made by lower revenue officials and their conduct about the entry and verification of the mutation, the fact that the possession has not been transferred the attestation of the mutation was unlawful. The reference recommended by the Commissioner, Jalandhar Division is, therefore, accepted and the cases are remanded to S.D.O. -cumAssistant Collector Ist Grade, Batala, being contested ones, for fresh decision in accordance with law after giving due opportunity of being heard to all the parties.

Announced.

Reference accepted.