
(2006) 05 P&H CK 0131
In the Punjab And Haryana At Chandigarh
Case No : ROR No. 675 of 2001

Bachan Singh and others

APPELLANT

Vs

Gulab Kaur (Died) through LRs.

RESPONDENT

Date of Decision : 29-05-2006

Acts Referred:

Citation : (2007) 2 LLR 476 : (2007) 1 RCR(Civil) 594

Hon'ble Judges : B.K.Srivastava;FC, J

Advocate : Sh. Gurcharan Singh, Advocate.For the Resopndent Nos. 1 to 4 : Sh. G.S. Nagra, Advocate.For the Resopndent : Nos. 6 and 10 : Sh. S.K. Kaushal, Advocate., Advocates for appearing Parties

Judgement

B.K. Srivastava, F.C.

1. Brief facts of this case are that Assistant Collector 2nd Grade vide his order dated 10.12.1992 sanctioned mutation No. 397 (Tabdeel Malkiat) of village Makrauna Khurd in favour of Gulab Kaur, respondent on the basis of High Court order dated 20.12.1971 and civil Court decree dated 7.4.1961.

2. Against this order petitioner filed appeal before the Assistant Collector 1st Grade (SDM) Roop Nagar who, vide his order dated 12.12.1994 remanded the case to Assistant Collector 2nd Grade to decide the case afresh after hearing the parties. Later, as per order dated 27.9.1995 of District Collector the case was transferred to Assistant Collector 1st Grade (SDM) Roop Nagar for decision as contested mutation.

3. Counsel for the petitioner argued that decree dated 7.4.1961 passed by Sub Judge 1st Class is very old and was meant for possession and parties had not taken possession in view of this decree till date and that without formal execution of this decree, it would not be recorded in revenue record. On the other hand, counsel for respondent argued that decree was issued on compromise basis and High Court has already upheld it in its order dated 20.12.1971.

4. Assistant Collector 1st Grade (SDM), vide his order dated 13.6.1996 agreed with the contention of the petitioner and ordered that party should first get the decree dated 7.4.1961 executed and then it should get it entered in revenue record. Hence he ordered to keep pending the mutation till execution of decree.

5. Against above order respondent filed appeal before District Collector who vide his order dated 13.8.1996 transferred this case to the court of Sh. Sarvjeet Singh, IAS, Collector Ropar for decision who vide his order dated 29.1.1997 held that copies of khasra girdawaris from the year 1966 to 1996 showed that possession in cultivation had been separated between the parties. He further held that decree dated 7.4.1961 was based on compromise. Hence he agreed with the present respondent and ordered this mutation as per civil court decree and order of Hon"ble High Court.

6. Against the above order petitioner filed appeal before Commissioner, Patiala who, vide his order dated 16.5.2001 held that the order of Collector was in detail, supported by cogent reasons. He dismissed the appeal. Now petitioner has filed the revision petitioner before this court.

7. Perusal of the High Court order which upheld the compromise decree of trial Court shows that the suit was a declaratory suit; it was not merely a suit for possession, as alleged. Revenue Officer is duty bound to honour Civil Court judgment as per mandate of Punjab Land Revenue Act. He does not require a formal direction from the civil court in execution proceeding for incorporating civil court verdict/decreed in revenue record by way of mutation. A person aggrieved with the mutation should proceed to civil court under Section 45 of the Land Revenue Act. As held by Sh. Sarvjeet Singh, Collector, Ropar, Khasra girdawaris revealed separation of possession between the parties. This shows that the compromise was acted upon on the ground.

8. The petitioner had relied on the ruling of Sh. H.S. China, Financial Commissioner, Punjab, 1972 Revenue Law Reporter page 585 Amrik Singh v. Nasib Kaur, in which the Financial Commissioner declined the mutation based on a compromise decree of Sub Judge, Ambala on the ground of lapse of 20 years. However, the case in hand is slightly different due to two reasons :

(i) in that case it is mentioned in para 4 of the Financial Commissioner's order that the parties had not acted upon the civil Court decree as they continued to dispose of their lands in violation of the compromise. Here, in this case, khasra girdawaris were testimonies to the fact that the compromise was acted upon by separation of cultivation possession.

(ii) This case has a background of hot contest where the matter went right upto the High Court which upheld the compromise decree. The High Court's judgment dated 20.12.1971 is on record by which compromise between the parties dated 7.4.1961 along with decree of the trial Court was upheld. By virtue of this, 1/2 share of the property had gone to Gulab Kaur, then plaintiff (as per page 3 of the High Court order) and 1/4th was assigned to Master Chinto (then defendant) and

the rest jointly to Sarban Singh, Puran Singh, then defendantsappellants. This verdict has to be honoured.

In view of the above facts and observations, this revision petition is dismissed.