
(2010) 10 P&H CK 0205
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 20535 of 2008

Baljit Singh

APPELLANT

Vs

Financial Commissioner, Animal Husbandry, Punjab,
Chandigarh and others

RESPONDENT

Date of Decision : 08-10-2010

Acts Referred:

Punjab Land Revenue Act, 1887 — Section 34

Citation : (2012) 2 RCR(Civil) 384

Hon'ble Judges : Rajive Bhalla, J

Advocate : Mr. Jatinder Singla, Advocate. For the Respondent No. 1 to 4, Ms. Anu Pal, AAG, Punjab, Mr. K.S. Chahal, Advocate., Advocates for appearing Parties

Judgement

Rajive Bhalla, J.(Oral)

The petitioner prays for issuance of a writ in the nature of certiorari for quashing the orders dated 26.07.2005, 11.01.2006, 26.09.2006 and 17.09.2008, passed by the Assistant Collector, Ist Grade, Sunam, the District Collector, Sangrur, the Divisional Commissioner, Patiala Division, Patiala and the Financial Commissioner, Animal Husbandry, Punjab, Chandigarh, respectively.

Counsel for the petitioner submits that Sher Singh suffered a consent decree dated 26.08.1995 in favour of the petitioner with respect to the land in dispute. A civil suit filed by Sher Singh and contested after his death by the private respondents was dismissed by the Civil Judge (Junior Division), Sunam on 14.05.2009. The revenue officer therefore, had no jurisdiction to record a mutation on the basis of a registered Will allegedly executed by Sher Singh.

Counsel for the private respondents submits that as the dispute whether the decree was obtained by fraud is pending adjudication before the first appellate court, the revenue officers have rightly recorded a mutation on the basis of a registered Will, executed by Sher Singh. It is prayed that in view of the pendency of the appeal, mutation proceedings should be kept in abeyance.

I have heard counsel for the parties and perused the impugned orders. A determination of rights by a civil court, has primacy and is, therefore, binding upon a revenue officer. The petitioner draws his title from a decree dated 26.08.1995. The validity of the decree has been upheld with the dismissal of the suit filed by Sher Singh. In the appeal filed against the dismissal of the suit, the first appellate court has not stayed operation of the judgment and decree passed against the private respondents. The revenue officers have ignored the civil court decree and recorded a mutation on the basis of a registered Will propounded by the private respondents. The revenue officers had no jurisdiction to disregard the judgment and decree dated 26.08.1995, passed by the Civil Judge (Junior Division) Sunam and record a mutation on the basis of a Will allegedly executed by Sher Singh.

The pendency of an appeal against the judgment recorded by the Civil Judge (Junior Division), Sunam, is irrelevant, at this stage, as operation of the judgment and decree passed by the civil court has not been stayed.

The writ petition is therefore, allowed, the impugned orders are set aside and the Assistant Collector, Ist Grade, Sunam, is directed to enter a mutation on the basis of the decree dated 26.08.1995. While entering the mutation, he shall append a note in the remarks column that a dispute with respect to this land, is pending before the Additional District Judge, Sangrur.