

(1993) 03 SHI CK 0002

In the High Court Of Himachal Pradesh

Case No : Revision Petition No. 181 of 1990

Manohar Singh and Others

APPELLANT

Vs

Kirpal Singh and Another

RESPONDENT

Date of Decision : 02-03-1993

Acts Referred:

Himachal Pradesh Land Revenue Act, 1954 — Section 17

Citation : (1993) 2 ShimLC 494

Hon'ble Judges : S.S. Sidhu, I.A.S.

Bench : Single Bench

Advocate : Y.S. Thakur and Kuldip Singh, for the Appellant; N.K. Bansal, for the Respondent

Final Decision : Dismissed

Judgement

S.S. Sidhu, I.A.S.

1. Shri Manohar Singh and two Ors. have filed this revision petition u/s 17 of Himachal Pradesh Land Revenue Act, 1954 against the order dated 8-5-1990 of the Commissioner, Shimla Division.

2. The facts of the case briefly stated are that the Assistant Collector, II Grade, Kandaghat attested the mutation No. 213 on 6-1-1988 pertaining to village Chaima, Tehsil Kandaghat, in favour of the present Petitioners. This order was challenged by Shri Kirpal Singh before the Sub-Divisional Collector, Kandaghat in an appeal, which was accepted by him on 24-10-1989. The learned Sub-Divisional Collector vide his aforesaid order set aside the mutation of inheritance and remanded the case to the Assistant Collector for further proceedings. Shri Manohar Singh and Ors. filed an appeal before the Commissioner against the order dated 24-10-1989 of the Sub-Divisional Collector but the same was dismissed by the Commissioner, Shimla Division on 8-5-1990. Now the Petitioners have come in revision before us against the orders of the Sub-Divisional Collector and the Commissioner, Shimla Division.

3. The name of Smt. Gulab Del, Respondent No. 2 was ordered to be deleted since she expired during the pendency of the revision petition. It was later on brought to the notice of this Court that Shri Kirpal Singh, Respondent No. 1 is the only legal representative of deceased Gulab Del.

4. We have heard Shri Y.S. Thakur, Advocate, who appeared vice Shri Kuldip Singh, Advocate, learned Counsel for the Petitioners and Shri N.K. Bansal, Advocate, Counsel for the Respondent No. 1. We have also gone through the record very carefully. The learned Counsel for the Petitioner drew my attention to the pedigree table, which had been drawn on the body of the revision petition. He laid emphasis on the point that Smt Janki Devi, regarding whose inheritance mutation had been sanctioned in favour of the present Petitioners, had forfeited her right in the property after remarriage. However, nothing was brought on record that Smt Janki had remarried and thus had forfeited her right. On the other hand, the learned Counsel for the Respondent No. 1, pointed out that Smt. Janki was grandmother of Kirpal Singh, who performed the last rites on her death Shri Kirpal Singh is reported to have filed an appeal before the Sub-Divisional Collector since he learnt that mutation of inheritance had been sanctioned in favour of the present Petitioners. Since Shri Kirpal Singh was interested party, it was incumbent upon the Assistant Collector, II Grade to have offered him an opportunity of being heard since this opportunity had not been provided to him, the order dated 6-1-1988 passed on mutation No 213 was against the principles of natural justice. The learned Sub-Divisional Collector did the right thing in remanding the case to the Assistant Collector, II Grade. Similarly, the learned Commissioner, Shimla Division, was justified in upholding the order dated 24-10-1989 of the Sub-Divisional Collector. The orders of the Sub-Divisional Collector and the Commissioner, Shimla Division, do not suffer from any irregularity or illegality. As such, we find no force in the revision petition and the same is dismissed. The Assistant Collector, II Grade, Kandaghat, is directed to attest the mutation afresh in accordance with law after giving reasonable opportunity of being heard to the Petitioners and the Respondent No. 1, Shri Kirpal Singh.

5. Order be communicated.