
(2017) 02 P&H CK 0189
In the Punjab And Haryana At Chandigarh
Case No : CWP No.1103 of 2014

Rajinder Singh son of Rulia Ram

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 27-02-2017

Acts Referred:

Citation : (2017) 02 P&H CK 0189

Hon'ble Judges : Mr. Amit Rawal, J.

Bench : Single Bench

Advocate : Mr. Anil K. Ahluwalia, Advocate, for the Petitioner; Mr. Yatinder Sharma, Addl. A.G., Punjab, for the Respondent; Mr. C.B. Kaushik, Advocate, for the Respondent No.5

Final Decision : Dismissed

Judgement

Amit Rawal, J. (Oral) - The petitioner namely Rajinder Singh son of Rulia Ram son of Chetu @ Chatter has invoked the extraordinary jurisdiction of this Court in the nature of certiorari for quashing the impugned orders dated 16.03.2012 (Annexure P-18) and 23.08.2013 (Annexure P-19) passed by the Assistant Registrar and Additional Registrar respectively with a further prayer of mandamus/direction for holding enquiry into the matter of society record on the premise that his father, Rulia son of Chetu @ Chattar was original founder of the society namely the Harijan Scheduled Caste Cooperative Land Owing Society (SCLO) Ltd., Village Sarsani, Tehsil Rajpura, District Patiala earlier, now Tehsil Dera Bassi, District Mohali.

2. Mr. Anil K. Ahluwalia, learned counsel appearing for the petitioner submits that originally there were 12 members in the above society. The society, which was formed in the year 1956, list of 12 members of society was mentioned in the application for transfer of Nazool Land measuring 67 bighas 8 biswas vide Annexure P-1.

3. On 06.01.1958, a list of 12 members was prepared by the society for

registration of the society, which was given to the Tehsildar, Rajpura. Resultantly, the society was registered in 1958. Even jamabandi for the year 1958-59 reflects the name of the members of the society. The Nazool Land measuring 67 bighas 8 biswas was allotted to society respondent No.20, which had to pay Rs. 2800/- in 20 instalments. The members of the society had to deposit their shares with the society for further deposit of the same with Tehsildar, Rajpura. The 1st instalment of Rs. 140/- was deposited by the society on Kharif, 1956 and last instalment of Rs. 140/- on Rabi, 1966 and in this manner, total amount of Rs. 2800/- was deposited. No objection certificate (Annexure P-5) had been issued by the Tehsildar in favour of the society regarding no dues towards the society. Sale certificate dated 01.02.1969 (Annexure P-6) had been issued in favour of the society by the Collector.

4. In the year 1987, petitioner's father Rulia Ram died and he requested President of the society-respondent No.20 to add his name in place of his deceased father but his request was not acceded to. The petitioner acquired the knowledge that in the revenue record and as well as in the record of the society, name of petitioner's father was same but name of grand father of the petitioner was changed as Shonku in place of Chetu, as the father of the petitioner only knew Punjabi and used to sign in Punjabi. The knowledge of the aforementioned mistake was acquired in the year 2006. Resultantly, he approached the President and other members, who refused to correct/ratify the mistake. Consequently, on 24.04.2006, the petitioner had filed petition before the Assistant Registrar, Cooperative Society who dismissed the same vide order dated 31.10.2006 (Annexure P-8). The order of the Assistant Registrar was challenged before the Deputy Registrar, Patiala in appeal but the same met with the same fate.

5. During the pendency of the appeal, the petitioner had requested the Assistant Registrar, Dera Bassi to supply the list of members of the society from the President but uncertified copy of list of members was sent by post on 15.06.2007 (Annexure P-11) by the Assistant Registrar. Thereafter, the petitioner gave a detailed complaint dated 22.06.2007 against the society members with regard to tampering of the record to the Registrar, Punjab Cooperative Society vide Annexure P-12. Reminder (Annexure P- 13) and many other representations failed to yield any fruitful result.

6. The orders aforementioned were challenged by filing revision petition before the Joint Registrar, Cooperative Societies, Punjab, who vide order dated 11.02.2010 set aside the orders dated 31.10.2006 and 15.06.2007 and remanded the matter back to the Assistant Registrar.

7. However, the Assistant Registrar did not go through the remand order properly and vide order dated 16.03.2012 dismissed the matter. The aforementioned order was assailed by filing the revision petition before the Additional Registrar, Chandigarh which was dismissed vide order dated 23.08.2013 (Annexure P-19). The Authorities below have not noticed the fact that the petitioner had placed on record the certified copy of list of 12 members of the society attested by the

Tehsildar (Annexure P-2), copy of sale certificate and mutation dated 01.02.1969 issued by the Collector, Patiala (Annexure P-6), jamabandi (Annexure P-3), copy of No Objection Certificate dated 01.05.1967 (Annexure P5) etc. During the course of hearing also shown the certified copies of Annexures P-1 to P-3 and P-6 only.

8. He further submits that this Court while realizing the aforementioned fallacy on the part of the respondents, called upon them vide order dated 13.12.2016 to produce the original record, which has been produced.

9. He further submits that removal of name of petitioner's father cannot be done in the absence of any resolution. The order does not reveal any resolution. This fact has not been noticed by the authorities, thus, the orders under challenge are liable to be set aside.

10. Mr. C.B. Kaushik, learned counsel appearing on behalf of respondent No.5 submits that in pursuance of the order dated 13.12.2016 original record has been produced i.e. register of the members wherein it has been mentioned as Rulia Ram son of Shonku and not Chetu @ Chattar. Even the passport and other registered maintained by them has been shown to this Court which reflected that it was Rulia son of Shonku, in essence, Rulia son of Chetu @ Chattar was never member of the society, thus, question of tampering of record is irrelevant.

11. Before he could conclude his arguments, he has drawn attention of this Court to order (Annexure P-19) passed by the Additional Registrar rendering the finding of examining the entire record threadbare.

12. Similar are the arguments of Mr. Yatinder Sharma, Addl. A.G., Punjab.

13. In rebuttal, Mr. Ahluwalia has drawn attention of this Court to the written statement filed by respondent No.4 acknowledging the receipt of the application of registration of the society wherein name of Rulia son of Chatter has been mentioned.

14. I have heard learned counsel for the parties and appraised the paper book. The document Annexure P-1 is not on the record of the society. It is self-serving document signed by one President of the Society. No proof or evidence has been placed on record whether the person, who has signed the application was actually the President of the Society. It apparently appears to be a self-created document. Jamabandi also does not mention the identity of the property.

15. On going through the records referred to above, it is the Rulia Ram son of Shonku and not Chattar, thus, question of cutting/tampering of record does not arise. All the documents i.e. Annexure P-2 and P-3 etc. are self-serving documents and do not establish the case of the petitioner. The finding rendered by the Additional Registrar with regard to examining of record as pointed out by Mr. Kaushik, leaves no manner of doubt that petitioner's father was never member of the society. For the sake of brevity, the relevant part of the finding reads as under:-

"At the time of producing the society records by the respondent party, produced the original register of the members dated 06.09.56 and Assistant Registrar, Cooperative Societies, Dera Bassi produced the file related with the actual registration of the society. In which, the list of the preliminary members of the society is attached. In this list, the name of Rulia Ram son of Shonku Ram has been entered at Serial number 4. The certified copy of the registration of the society and the list of the members attached in the file, is attached in the file at page No.173 and 175. The certified copy of the registered members of the society is attached in the file at page No.159 to page No.171. This Court examined this record in the presence of Sh. Rajinder Singh petitioner and his counsel. Counsel for the petitioner has inspected this record at his own level also. As per the original register of the members and the file related with the original registration of the society, name of Sh. Rulia Ram son of Shonku is entered at serial No.4 in the total 12 preliminary members of the society. In these documents, there is no cutting of any type at any where. In the original record/register of the members, no persons named Sh. Rulia Ram son of Chetu Ram is the member of the society. Along its side, presented the copies of the judgment order dated 31.01.2006 passed by the Assistant Registrar s/s Dera Bassi regarding this case and the judgment order dated 15.06.2007 passed by Deputy Registrar S/S Patiala regarding this appeal. It has been proved in these both judgment orders that the petitioner has not produced any such documentary proof vide which it may be clarified that any person named Sh. Rulia son of Chetu Ram was recorded in the preliminary members of this society. From the documents produced by both parties, statements made and the evidences of the witnesses produced, it is known that there were two different persons in village Sarsini named Sh. Rulia ram son of Chetu Ram and Sh. Rulia Ram son of Shonku. For the purpose of constituting The Sarsini Scheduled Caste Cooperative Land Owners Society Limited, Sarsini, for the transfer of Noozal land situated in village Sarsini in the name of society, Sh. Sunder Singh Ex President of the society had sent the application to Tehsildar Rajpura. On examining this application it is very clear that the names of the heads of the Harijan families of village Sarsini had been written in this application and had not written the names of the society members. The list of the member of the year 1995 which was produced by the petitioner party vide Exhibit P-11, on the basis of which list, the suit has been filed that Sh. Bhagu son of Kundan Ram was member of the society, this list was given to him by Assistant Registrar S/S Rajpura. In this list, name of Sh. Rulia Ram son of Chetu was also recorded as member of the society. On comparing this list with the registered members, this point has come to light that any person named Bhagu son of Kundan Ram, is not the member of this society and nor has remained every previously. Hence this document is not believable. From the order dated 31.10.2006 passed by Assistant Registrar S/S Dera Bassi and order dated 15.06.2007 passed by Deputy Registrar S/S Patiala and order dated 16.3.2012 passed by Assistant Registrar S/S Dera Bassi and from the register of society members, it is very clear that Rulia Ram son of Shonku was society member and not Rulia son of Chetu. This point has been

proved from the documents produced by the petitioner that the petitioner Sh. Rajinder Singh is son of Rulia son of Chetu. But this point is not clarified that Sh. Rulia son of Chetu named person was society member. The other documents produced by the petitioner party upon which, mention has been made of having the marks of signatures or thumb impressions of Rulia Ram but in his connection no original document has been produced."

16. The documents produced by the petitioner on account of proof are contrary to the original register of the members of the society. In fact, as per the actual register of the members, the date of admission of the preliminary members is entered as 06.09.1956 whereas the society was registered by the Registrar Cooperative Societies vide registration No.3186 on 02.10.1956. Therefore, examination of the actual register of the members leads to irresistible conclusion that father's name of Rulia Ram was Shonku who had become the preliminary member of the Scheduled Caste Cooperative Society and not petitioner's father i.e. Rulia son of Chetu @ Chattar.

17. For the reasons aforementioned, the orders under challenge are based upon the preponderance of evidence. No ground for interference is made out. The writ petition is dismissed.