

IN THE COURT OF DIVISIONAL COMMISSIONER, JAMMU

(With the powers of Deputy Custodian General &
Financial Commissioner Jammu under Govt. order 578-C of 1954)

Present : Dr. Pawan Kotwal, IAS

File No.
50/Revision
2011-12

Date of Institution
29-09-2011

Date of Decision.
28-10-2016

Hakam Singh, Aged 80years (Now Deceased) S/o S. Man Singh through legal heirs
1. Charanjeet Singh }
2. Amrik Singh } sons of Late Hakam Singh All R/o Ajit Nagar, Rani Bagh
3. Paramjeet Singh } Tehsil & District Jammu. (Petitioner)

Versus

1. Smt. Bachan Kour, W/o Late Jagat Singh
R/o Gadhi Garh, Tehsil & District, Jammu. }
2. Surjeet Singh } Sons of Sant Singh
3. Trilochan Singh (through Rajinder Kour) } (Respondents)

In the Matter of:- Revision against the order of attestation of Mutation No. 784 attested by Tehsildar Jammu interms of Govt. Order No. 254-C with respect of land measuring 02 Kanal 03 Marla falling under Khasra No. 1392, Situated at Village Ghadi Garh Tehsil and district Jammu, Prayer for setting aside the same.

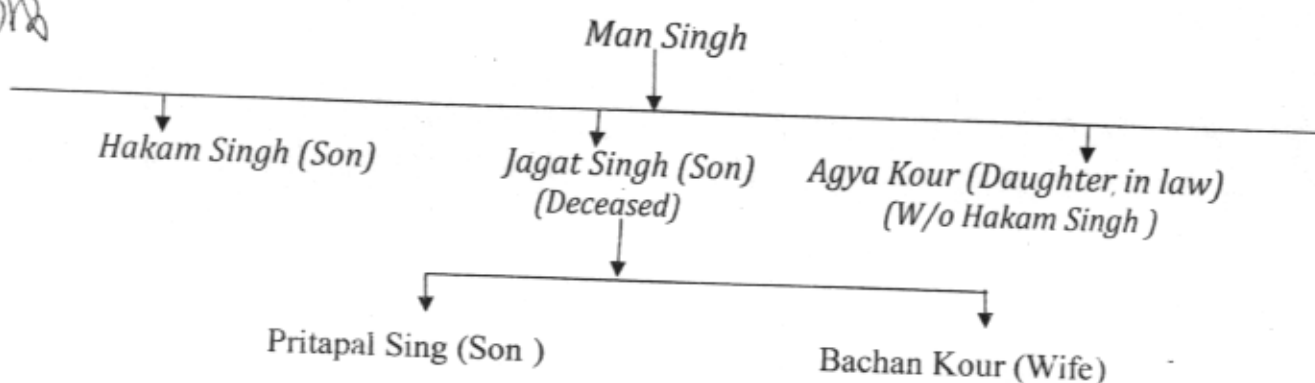
Appearing Counsel : Petitioner in person
Advocate K. S. Puri for respondents)

ORDER

1. The present petition has been filed on the following grounds:-

a) That the Respondent was not entitled for getting the mutation attested U/S 254/C in favour of her husband namely Jagat Singh who new has since with regard to the land measuring 02K-03 M falling under Khasra No. 1392, Situated at Village Gadi Garh Tehsil and District Jammu.

b) The pedigree Table of the parties is as Under



- c) That in fact originally land measuring 15 Kanal 01 Marla falling under Khasra No's 111, 112-Min and 124 situated at Village Gadi Garh Tehsil and District Jammu was allotted being refugee in the name of S. Man Singh S/o Sham Singh and his family Members namely Hakam Singh (Son), petitioner/ Appellant herein, Jagat Singh (Son) now dead Agya Kour daughter in law of Man Singh and W/o Hakam Sing. Bachan Kour daughter in law of Man Singh and W/o Late Jagat Singh & Pritpal Singh Grand Son of Man Singh and S/o Late Jagat Singh and Bachan Kour respectively.
- d) That out of said Members Man Singh died, his son Jagat Singh S/o Man Singh has also died and Agya Kour daughter in law of Man Singh and wife of Hakam Singh also died and out of six members mentioned above three members in the family have died and only are living and as such they are entitled for having equal shares out of the above said land allotted in their favour and belonging to them.
- e) That the said land 02 K- 3 Marla falling under Khasra No. 1392 is in the peaceful cultivating position of the Petitioner / Appellant being its exclusive owner and possessor without any other person of the family mentioned herein.
- f) That the Mutation attested U/S 254/C is illegal unlawful and not sustainable in the eyes of law as the Petitioner / Appellant is also one of the Member in the Family on 'Alaf Form' and was entitled to get his share out of the said land to the extent of 05 Kanal.
- g) That the mutation impugned has been attested at the back of the Petitioner / Appellant and no summon, notice have ever been served upon Petitioner / Appellant.
- h) That the mutation has been attested in violation of the standing Rules and the same has been attested at the head-quarter and not at the place where the land is situated.
- i) That no spot enquiry has been conducted nor any witness, Sarpanch, Lumberdar and Chowkidar have been summoned and examined hence the order impugned is bad in law and deserves to set aside out rightly.

2. Counsel for petitioner filed written arguments wherein the plea taken are same as submitted in memo of petition.

3. Counsel for respondent also filed Written arguments wherein it is submitted that:-

- a) It is not maintainable as it involves no question of law or public importance and the facts have been disputed, therefore, as per law laid down by various High Courts the revision petition is liable to be dismissed having been filed on disputed facts.
- b) The plaintiff has not approached this Hon'ble Court with clean hands. He has concealed the facts from this Hon'ble Court.
- c) That the brief facts of the case are that Hakam Singh (now deceased) was included in the family of his real uncle namely Inder Singh S/o Sham Singh. Inder Singh was head of the family and his family constituted of 06 members. Form Alf of Inder Singh in which Hakam Singh has been shown as one of his family members is enclosed herewith.

- d) That said Hakam Singh has shared the benefit of the land allotted to the family of Inder Singh of Which he was one of this family members and apart from agricultural land allotted in favour of Inder Singh , Hakam Singh has constructed a residential house on the land which was allotted to Inder Singh as one of his family members and included in his form Alf.
- e) That after obtaining double benefit i.e. one showing himself as family member in the family of Inder Singh and secondly showing himself as a separate family and obtaining double benefits has created a mischief by entering his name in the family of Man Singh whereas the fact is that said Hakam Singh was neither a member of Man Singh's family nor he ever remained in possession of even an inch of land allotted to the family of Man Singh in which the respondent is one of the members.
- f) That the mutation No. 784 has been attested in favour of Jagat Singh S/o Man Singh after the death of Man Singh who was the head of the family in which Jagat Singh was also a member alongwith his wife i.e. Smt. Bachan Kour , the respondent herein. This mutation No. 784 has been attested on 31-03-1974 and the said mutation was attested in presence of Hakam Singh as is evident from the mutation itself. The said mutation was attested at Gadigarh where the land situates and Chowkidar of the area was also associated in the mutation proceedings. When Hakam Singh present at the time of attestation of the mutation was himself present and participated in the mutation proceedings then how could he challenge the same after lapse of 37 years. Therefore the allegations of Hakam Singh that mutation was attested in his absence is against the Judicial record which has presumption of truthfulness under law. On this ground the case is liable to be dismissed. Hakim Singh is a witness in the mutation proceedings.
- g) That after the death of Jagat Singh mutation No. 327 (Jeem) was attested on 09-09-2009 by virtue of which the inheritance of Jagat Singh (deceased) was conferred upon the respondent, widow of Jagat Singh and her children.
4. During pendency of petition applicants Surjeet Singh & Tirlochan Singh S/o S. Sant Singh filed application through counsel for impleading them as respondents. After hearing counsel for both the parties, their application was allowed and they are arrayed as respondent No.2 & 3.
5. It is to be mentioned that during pendency of petition petitioner (Hakam Singh) died on 01-08-2014 & accordingly an application for bringing LRs of deceased Hakam Singh came to be filed by counsel along with death certificate Legal heirs of Hakam Singh are brought on record & title of the case is changed from "Hakam Singh V/S Bachan Kour & Ors." to Charanjeet Singh & Ors. V/S Bachan Kour & Ors."
6. The case came up for hearing. Petitioner present in person. Counsel for respondents present. They are heard. Written arguments filed by both the parties are gone through & record is examined carefully from which it has come to fore that-
- a) Man Singh (Deceased) Grandfather of petitioner & father in law of respondent 1 was a DP & was allotted land as per family strength.
- b) That after the death of Man Singh & thereafter of Jagat Singh mutation of inheritance 426 of Village Seore for Kh. No. 111, 112, 130 & 133 measuring 5K - 16M, 6K-18M, 11K -12M & 1 K - 14M respectively has been attested in favour of legal heirs of Jagat Singh for half of the


above mentioned land & remaining half in favour of Ishwar Kour (allottee)Ws/o Mohan Singh

- c) The mutation No. 784 of Village Gadigarh which is dispute has been attested 31-04-1974 for the land measuring 2 K – 3M & ownership rights have been conferred on Jagat Singh exclusively by of Govt. Order 254-C of 1965.
- d) It is not out of place to mention that a mutation No. 327G dated 09-09-2009 of inheritance of Jagat Singh also stands attested for the land measuring 2K- 3M. in favour of his legal heirs.
- e) It has not been understood that the petitioner Hakam Singh (Now deceased) did not challenge the mutation of inheritance of Man Singh attested in favour of Jagat Singh & thereafter in favour of his legal heirs but has challenged that mutation wherein Jagat Singh got ownership rights exclusively under Govt. Order 254-C of 1965 measuring 2K-3M comprises Kh. No. 1392.
- f) It is important to mention that the land allotted to Man Singh as shown in Form 'A' comprises of Kh. No. 111 & 112 wherein the mutation under challenge pertains to land in Kh. No. 1392.
- g) Having considered the contentions of both the parties, this court is of the opinion that the plea taken by the petitioners to challenge the mutation No. 784 has no legal force and petitioner has failed to establish his right / title over the land in dispute over which the ownership rights have been conferred exclusively on Jagat Singh under Govt. Order 254-C of 1965 in mutation impugned No. 784.

Therefore in view of the above facts and circumstances the present petition having no legal force is dismissed.

Stay issued by this court is hereby vacated. The case file be consigned to record after due completion.

Announced
20-10-2016


(Dr. Pawan Kotwal)IAS
Divisional Commissioner,
Jammu