

IN THE COURT OF SH. D.P.REDDY, I.A.S., FINANCIAL COMMISSIONER
PUNJAB, CHANDIGARH.

ROR 665-666 of 2010

Date of Institution: 02.08.2010

Date of Decision: 28.05.2018

Karamjit Kaur wife of Sukhdev Singh, resident of 4629. W. Normal Ave,
Frenso, California, U.S.A. through Special Power of Attorney Paramjit
Singh son of Rajinder Pal Singh, resident of Nasirpur Farm, Opp. Punjabi
University Patiala.

Petitioner

Versus

1. Divisional Commissioner, Patiala Division, Patiala.
2. Collector (A.D.C.), Patiala.
3. Assistant Collector Grade-I, Patiala.
4. Gurbant Kaur Widow of Late Amarjit Singh, resident of Nasirpur
Farm, Opposite Punjabi University, Patiala.

Respondents

Present: Sh. Suresh Singla, Advocate counsel for the petitioner.
Sh. R.K. Chauhan, Advocate counsel for the respondent
no.4.

ORDER

These are two inter connected revision petitions have been
filed by petitioner under section 16 of the Punjab Land Revenue Act, 1887
against the orders dated 30.4.2010 passed by Commissioner, Patiala
Division, Patiala vide which he sanctioned the mutation No.873 of Village
Nasirpur and Mutation No.188 of village Bir Bahadurgarh in favour of
Gunwant kaur (present respondent No.4) only on the basis of Will. The
facts of two Revision Petitions being common. These are being decided with
this single order.

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2. Brief facts of the case are that Amarjit Singh adopted son of Sukhdev Singh died on 24.9.2005 at Ramkot U.P. His landed property is in village 'Nasirpur' and 'Bir Bhadur Garh' Tehsil Patiala. Entry no. 873 regarding land in village Nasirpur and entry no. 188 regarding land village Bir Bhadur Garh were made in the mutation registers on the basis of unregistered Will dated 4.2.2004 in favour of Gunwant Kaur (respondent no. 4) widow of Amarjit Singh. Sarbjit Singh and Parmjit Singh filed objections before A.C.2nd grade that Gunwant Kaur being an accused in the murder of Amarjit Singh her husband therefore she was not entitled to inherit the property of deceased. It was also submitted before A.C.2nd Grade that the legal heir of Amarjit Singh is Jasbir Kaur alias Karmjit Kaur. Subsequently an application was made that name of Jasbir Kaur was wrongly given as the mother of Amarjit Singh and her actual name is Karmjit Kaur which was allowed. The matter was referred to A.C.1st grade by A.C.2nd grade being a disputed mutation. A.C.1st grade vide his order dated 28.1.2008 held that Amarjit Singh was 37 year old of at the time of death and had purchased farm house at Rampur in U.P. He was living there with his wife at the time of death. Mutation was ordered to be sanctioned in favour of Gunwant Kaur widow of Amarjit Singh on the basis of unregistered Will dated 4.2.2004 executed by Amarjit Singh in her favour.

2. An appeal was preferred before Collector-cum-ADC Patiala who vide his order dated 25.6.2008 set aside the order of the A.C.1st grade on the ground that Gunwant Kaur was involved in the murder of her husband. Therefore, she was not entitled to inherit the property of deceased. It was held that FIR had been registered against Gunwant Kaur but the case is still Undecided. She could not be debarred from inheriting the property of her deceased husband till she is convicted. In such

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circumstances the Collector held that the property of Amarjit Singh be mutated in the name of Karmjit Kaur (mother) to the extent of half share and the mutation regarding other half share could be sanctioned in the name of Gunwant Kaur subject to the decision in the criminal case registered against Gunwant Kaur. Will in favour of Gunwant Kaur was ignored being suspicious as the signature of testator Amarjit Singh appeared to be forged on the Will, because the signatures of Amarjit Singh on the Will did not match with the standard signatures on visual comparison. The document expert had not appeared as witness.

3. Two appeals were filed before Commissioner Patiala by Gunwant Kaur against the order of Collector dated 25.6.2008. The Commissioner set aside the order of the Collector and ordered that mutations be sanctioned in favour of Gunwant Kaur widow of Amarjit Singh on the basis of Will dated 4.2.2004. Hence the present revision petitions have been filed.

4. I have heard the Counsel for the parties. Counsel for the petitioner has reiterated the grounds taken in the petition. It has been submitted that Collector vide order dated 25.06.2008 had rightly sanctioned the mutation of half share in favour of the petitioner Karamjit Kaur and other half share was sanctioned after decision of the criminal litigation against Gunwant Kaur wd/o Amarjit Singh (deceased). The allegation against Gunwant Kaur is of a serious nature as it entails involvement in the murder of her husband. The AC 1st has sanctioned the mutation on the basis of unregistered Will in favour of Gunwant Kaur. Gunwant Kaur is not entitled to estate of deceased in view of Section 25 of Hindu Succession Act whereby it is provided that a murderer cannot

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succeed to the property of the deceased. The case of the petitioner is based on unregistered Will which was not duly proved.

5. On the other hand Counsel for the respondent has submitted that Sukhdev Singh was unmarried and petitioner Karamjit Kaur got married to Sukhdev Singh on 30.04.1974 while adoption had taken place on 29.12.1971. Thus, the petitioner has become the step mother and she is not entitled to succeed the property of deceased Amarjit Singh. Gunwant Kaur has been acquitted by the Court of Sessions vide judgment dated 25.07.2017. It is also pleaded by respondent no. 4 that she is entitled to succeed to the property of Amarjit Singh, deceased to the exclusion of present petitioner. Hence, the present Revision petition is liable to be dismissed. The respondent no. 4 is entitled to succeed to the property of Amarajit Singh on the basis of Will dated 04.02.2004 and also being a widow of Amarjit Singh.

6. I have considered the arguments of both the parties and documents available on the record. Amarjit Singh adopted son of Sukhdev Singh had died in suspicious circumstances and his wife Gunwant Kaur was made accused in the criminal case registered u/s 302 IPC etc. Although, she has been acquitted as has been submitted in the written arguments, it is not clear if any appeal has been filed against the judgment of the Session Court. The landed property of Amarjit Singh, deceased has to be mutated in the name of his natural legal heirs after his death. Collector-cum-ADC, Patiala has held that Karamjit Kaur petitioner being the adoptive mother of deceased is entitled to half share in the property along with Gunwant

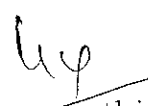
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Kaur, respondent no.4 (widow) being class-I heirs. It was held by the Collector that half share would be mutated in the name of Karamjit Kaur mother and the other half share inherited by Gunwant Kaur respondent no.4 subject to the decision of the criminal case. The Will was not relied upon keeping in view of the forged signature of deceased on the Will, gross inconsistencies in the statement of the witnesses and non-registration of the Will etc. The Commissioner has, however, set-aside the order of the Collector holding Gunwant Kaur as only legal heir to succeed to the property of the deceased on the bearer of Will.

I am of the view that the Will having being found suspicious by the Collector in the facts and circumstances of the case, the adoptive mother Karamjit Kaur petitioner and widow of deceased are the legal heirs of deceased and better than in class 1 heir of scheduled of the Hindu Succession Act. Thus, Karmjit Kaur is entitled to get half share in the property of deceased Amarjit Singh being mother while Gunwant Kaur is entitled to the other half share in the property of Amarjit Singh, being his widow but only after she is acquitted finally by the Hon'ble High Court or Supreme Court in the event of any appeal being filed. The Revision petitions are accepted and the order of the Commissioner, Patiala is set-aside. The order of the Collector, Patiala is upheld.

Announced.

Chandigarh, dated
the 28th May, 2018


(Deva Pampapathi Reddy)
Financial Commissioner, Punjab.