


C. I.

मयादि सिवार

Opening Sheet For Revenue Appeals

*दि: 23/9/09
वर्ष: 2011*

IN THE COURT OF THE DEPUTY COMMISSIONER EXERCISING POWERS OF COLLECTOR,
SBS NAGAR.

Appellate side		Revenue Case No.	OF 19
District	Date of filling Pension	Whether received form Appellant in person, or by pleader of or Agent	Stamp on Pention of appeal
<i>श्री भाकजी</i>	<i>23/9/09</i>	<i>श्री भाकजी के पिता मयादि सिवार के द्वारा</i>	
<i>दावेद</i>	<i>करीबी</i>	<i>श्री भाकजी के पिता मयादि सिवार के द्वारा</i>	
<i>यदीश्वर</i>	<i>युयई</i>	<i>श्री भाकजी के पिता मयादि सिवार के द्वारा</i>	
<i>बुद्ध</i>	<i>के</i>	<i>श्री भाकजी के पिता मयादि सिवार के द्वारा</i>	
<i>महेश्वर</i>	<i>करीबी</i>	<i>श्री भाकजी के पिता मयादि सिवार के द्वारा</i>	

1-Jaswinder Kaur ; 2- Jasbir Kaur daughters of Late Bhag Singh, s/o

Versus

Amar Singh, residents of village Gobindpur, teh.& Distt.SBS Nagar, through their attorney Rewal Singh s/o Durga Singh, r/o vill. Chak Phullu, teh. Garhshankar , Distt.Hoshiarpur.

....Appellants

Versus

1-Baljinder Singh Rakkar ; 2- Baljit Singh Rakkar sons of Bahadur Singh, residents of village Gobindpur, teh.& Distt.SBS Nagar.

...Respondents

मयादि सिवार
23/9/09

Appeal form the order of S.D.M., Exercising the Powers of A.C Ist Grade, SBS Nag

Dated23rd.....Day of Sept. 2009

..... Claim in appeal: To set aside the impugned order under appeal by acceptin

and the appeal and for remending back the case to lower court for deciding

the mutation proceedings a fresh after affording opportunity to the appellants to lead their evidence.

ounds of appeal (translated) :- As attached

IN THE COURT OF LEARNED DEPUTY COMMISSIONER EXERCISING
POWERS OF COLLECTOR SBS NAGAR

REVENUE APPEAL NO. _____ OF 2009

1-Jaswinder Kaur;

2-Jasbir Kaur daughters of late Bhag Singh son of Amar Singh, residents of village Gobindpur, tehsil and district SBS Nagar through their attorney Rawal Singh son of Durga Singh, resident of village Chak Phullu, teh. Garhshankar Diatrict Hoshiarpur.

...Petitioners

Versus

1-Baljinder Singh Rakkar ;

2-Baljit Singh Rakkar-sons of Bahadur Singh ,residents of village Gobindpur,tehsil and District SBS Nagar.

.....Respondents

APPEAL AGAINST THE ORDER DATED 23.9.2009
PASSED BY THE ASSISTANT COLLECTOR IST GRADE,
NAWANSHAHAR.

CLAIM IN APPEAL:

To set aside the impugned order under appeal by accepting the appeal and for remanding back the case to the lower court for deciding the mutation Proceedings afresh after affording opportunity to the appellants to lead their evidence.

GROUNDS OF APPEAL:

1- That the impugned order dated 23.9.2009,passed by the leaned SDM, exercising powers of AC Ist Grade, Nawanshahar, whereby the mutation of inheritance of Bahadur Singh was sanctioned in favour of the respondents is illegal, against law and facts and, as such, is liable to be set aside.

2- That the learned lower court failed to appreciate the peculiar facts of the case, as well as, the law on the subject, with the result a serious miscarriage of justice has occasioned to the appellants.

*For summons respondent's case
lower court's meaning till
disposed of this stayed till
order.*

Refined

*Notice
17/12/2009*

3- That the impugned order on the face of it is wholly illegal and unwarranted, and deserves to be set aside on the sole ground that the learned lower court failed to record evidence of the parties regarding its due execution, validity and authenticity in satisfaction of the provisions of section 63 of the Indian Succession Act, as well as, section 68 of the Evidence Act, and, the same deserves to be set aside on this short ground.

4- That the alleged will set up by Bahadur Singh (since deceased), allegedly executed in his favour by Bhag Singh, the father of the present appellants and said Bahadur Singh was still under fire and under judicial scrutiny in the civil court by way of suit for declaration filed by the present appellants, in which the learned civil court has already granted order of status quo regarding alienation of the property vide order, dated 2.6.2008 passed by the court of Shri R.K. Sharma, learned Additional Civil Judge (Senior Division), Nawanshahar. That being so, as per the provisions of the Punjab Land Revenue Act, as well as, the instructions issued by the Hon'ble Financial Commissioner, Punjab, the learned lower court as an act of prudence should have kept the mutation proceedings in abeyance by adjourning the same sine die, till the decision of the civil suit by the civil court and order to the contrary is wholly un-warranted and un-sustainable and, thus, on this ground also, the impugned order is liable to be set aside.

5- That besides the above lacunae and legal flaws in the impugned order under challenge, the same even otherwise is liable to be set aside, on the sole ground that the appellants have neither been given any opportunity to cross-examine the witnesses allegedly examined by the respondents before the Distt. Revenue Officer, who were neither tendered for their examination or for cross-examination before the learned AC Ist Grade, Nawanshahar, nor the appellants have been given an opportunity to lead their own evidence, so much so, even the learned counsel for the appellants, representing them in the lower court, was not heard in the matter. As a matter of fact, the appellants were given the date 30.9.2009, whereas the learned lower court decided the mutation proceedings much prior to that

i.e. on 23.9.2009. The undue haste shown by the learned lower court, which is writ large on the face of the impugned order, wherein while marking the presence, the learned lower court, has marked the attorney of the respondents, as well as, the attorney of the appellants, which speaks volumes of the bias and undue haste in the mind of the learned lower court. When the appellants, who are Non Resident Indians and represented by counsel, what was the hurry that the learned lower court did not feel the necessity to call the counsel and instead marking the presence of attorney of the appellants. The appellants, thus, have been deprived of their sacred right to cross examine the witnesses of the respondents and to lead their own evidence, and thus, the impugned order stands vitiated on this ground as well.


6- That the learned lower court conducted the proceedings in such a wreckless manner that even Mrs. Baksho Kaur, mother of the appellants and Bahadur Singh was not served. Any attorney of any other documents produced on record by the respondents, the same is forged and fabricated and carry no legal value.

7- Bahadur Singh breathed his last on 15.10.2007 and the alleged will pressed into service is dated 23.9.2007, meaning thereby that he died immediately after the execution of the alleged will and it shows that Bahadur Singh was not keeping good health and mental equilibrium.

8- That the reasoning adopted by the learned lower court that the appellant had no locus standi to challenge the will of Bahadur Singh, are wholly erroneous, because the alleged will allegedly propounded by Bahadur Singh of his late father Bhag Singh was a forged and fabricated document and more so was under judicial scanner in the civil court and in this scenario of the matter, when Bahadur Singh was not having perfect title over the estate of his father Bhag Singh, so he was not competent to will away any such interest in favour of the respondents more especially to the exclusion of other legal heirs of Bahadur Singh. Thus, taken from any angle the impugned order under appeal is wholly illegal, un warranted and unsustainable in the eye of law and, thus, deserves to be set aside.

7- That the appeal is well within time.

8- It is, therefore, prayed that the impugned order under appeal may kindly be set aside by accepting the appeal and the case may be remanded back to the learned trial court to decide the mutation afresh after affording due opportunity to the appellants to cross examine the witnesses of respondents and to lead their own evidence in the interest of justice, equity and fair play.



APPELLANTS

THROUGH: SHRI ~~RAWAL~~ SINGH THEIR ATTORNEY

THROUGH: SHRI A.S. RANA AND SHRI B.S. RANA ADVOCATES



NAWANSHAHAR

DATED; 13.10.2009