

as of today.

28. So far as other charges/fees are concerned, we are of the view the petitioner is not justified in getting them waived off. We have already held that the new zoning plan approved on 20.12.1998 is not *ultra vires*. As such, there cannot be any good ground whatsoever for restraining P.U.D.A. from levying plan scrutiny fee, security fee in excess of Rs.500/- or any additional land utilization fee to be charged by P.U.D.A. in due course. We are of the view that the claim of the present petitioner on the above said count is absolutely unjustified.

29. So far as width and length of cantilevers (Chhajjas) under the rights vis-à-vis the new Building Rules are concerned, we restrain ourselves to adjudicate upon this hypertechnical question. These are the matters which are left to the Engineers and the Architects who are qualified and experienced persons in this regard. We would not like to interfere on this issue at all.

30. As to the ancillary reliefs urged by the petitioner, the same are not germane and cannot be legally allowed. We are of the opinion that a review petition is quit often mistakenly treated to be of wider ambit. But in fact it is not meant to enable a party to draw a red herring across the trial and make claims of sorts.

31. At the same time, this writ, in our view, is exclusively personal to the petitioner. It is quite meet and proper to say in this connection that no other plot holders have joined the petitioner. They have also not agitated the matter on their own. The reasons for the same cannot be fathomed out herein. The Courts cannot enter into the minds of others. The scope of personal relief cannot be converted to that or relief *in rem*.

32. The be-all and end-all of the above discussion is that the petitioner herein succeeds to the extent indicated above. In other words the notice Annexure P-8 stands nullified. The building plan should now be submitted by the petitioner within the aforesaid fixed period and the same shall be approved by the authorities according to the prevailing buildings Rules as of today without charging any extension/non construction fee from him. This writ petition and the C. M. are disposed of accordingly.

Petition disposed of.

FINANCIAL COMMISSIONER, PUNJAB

Before Shri Mukul Joshi, I.A.S., Financial Commissioner Taxation.

R.O.R. No. 277 of 1999

Decided on 14.01.2004

Bhagwant Singh and Others

Petitioners

Versus

Ranjodh Singh and Others

Respondents

For the Petitioners: Shri Vijay Sharma, Advocate.

For the Respondents: Shri M.S. Chahal, Advocate.

**Punjab Land Revenue Act, 1887 (XVII of 1887), Section 34-37 –
Mutation of inheritance -- Will – The evidence of the deed writer and**

marginal witnesses are not sufficient for sanctioning mutation on the basis of unregistered Will -- Will must also be free of suspicious circumstances – Non-mentioning of fact of having three sons and two daughters in the Will and disinheriting them without giving any reason – Is by self is an extremely suspicious circumstance -- Mutation on the basis of Will declined -- Mutation of inheritance is ordered to be sanctioned.

(Para 4)

ORDER

Mr. Mukul Joshi, I.A.S., Financial Commissioner. – This is a Revision Petition against the order of the Commissioner Patiala Division, Patiala dated 31.3.1999 vide which he dismissed a Revision Petition filed against the order of the Collector, Ludhiana Dated 2.6.1989. Vide this order the Collector had dismissed an Appeal filed against the order of the Assistant Collector 1st Grade, Ludhiana dated 16.1.1989 vide which he had sanctioned the Mutation of inheritance of Smt. Ranjit Kaur wd/o Hari Singh in favour of her son Sh. Ranjodh Singh s/o Shri Hari Singh on the basis of an unregistered Will in his favour. The factual details of the case are contained in the order of the Assistant Collector 1st Grade and need not be repeated.

2. The counsel for the Revision Petitioner has argued that all the three Revenue Authorities have not correctly appreciated the facts of the case and have sanctioned/upheld of mutation of inheritance of Smt. Ranjit Kaur on the basis of a Will that is not only unregistered but full of suspicious circumstances. These suspicious circumstances pertain to the thumb impression of Smt. Ranjit Kaur on the will, the fact that the Will was scripted at the Tehsil office Samrala while Smt. Ranjit Kaur is a resident of Bhaini Ala. She also give a wrong address, that of village Ghulal, which is her parental village. The Will was executed in the Tehsil office Samrala but in spite of this was not registered. The most important suspicious circumstance is that Smt. Ranjit Kaur vide this so called Will has disinherited three of her sons as well as her daughters without any reason. It is a well known fact that disinheritance of natural heirs without justification or good reason is an extremely suspicious circumstance. Therefore, it was argued, the three Revenue Authorities have wrongly held the Will as valid. It was argued that the orders of the lower Courts be set aside the mutation be sanctioned in favour of natural heirs of Smt. Ranjit Kaur.

3. On the behalf of the respondent it was argued that the execution of Will has been dully proved by the marginal witnesses and it has been scripted by a deed writer and its execution has been proved by the deed writer and witnesses. The beneficiary Sh. Ranjodh Singh is living with Smt. Ranjit Kaur and looked after her. The bequeathing of property solely to Sh. Ranjodh Singh was supported by the two daughters of Smt. Ranjit Kaur who were also heirs of Smt. Ranjit Kaur. In view of this the Assistant Collector rightly sanctioned the mutation on the basis of the Will and this order was rightly upheld by the Collector and Commissioner.

4. I have gone through the arguments of counsels and the case file. The Assistant Collector has accepted the Will on the ground that the execution had been proved by the deed writer and witnesses. This also seems to be stand taken by the Collector and Commissioner. However in the matter of an

unregistered Will, whereas the evidence of the deed writer and marginal witnesses may be necessary to establish the validity of the Will, this is not a sufficient condition. The will must also be free of suspicious circumstances that could give rise to any doubts about its validity. In the present case the unregistered Will executed by Smt. Ranjit Kaur is not free of suspicious circumstances. The most suspicious is that she has disinherited three of her sons and two daughters without giving any reason. Not only this, in the unregistered Will she has not even mentioned the fact that she had other three sons and two daughters. This is by self is an extremely suspicious circumstance. In view of this disposition, alongwith the other suspicious circumstances, only one conclusion can be reached, that the Will is too full of suspicious circumstances for it to be accepted by a Revenue Officer.

5. In view of the above the Revision Petition is accepted the orders of the Commissioner, Collector and Assistant Collector are set aside, and the mutation of Smt. Ranjit Kaur's inheritance is ordered to be sanctioned in favour of her natural heirs.

6. To be communicated.

Petition allowed.

PUNJAB AND HARYANA HIGH COURT

Before Mr. Justice N.K. Sud

Civil Revision No. 2203 of 1988

Decided on 19.05.2004

Hanuman Ji Ka Bara Mandir, Sirsa

Petitioner

Versus

Nagar Mal and Another

Respondents

For the Petitioner: Mr. R.S. Mittal, Sr. Advocate with Mr. Sudhir Mittal, Advocate.

For the Respondents: Mr. Ravi Sodhi, Advocate.

A. Haryana Urban (Control of Rent and Restriction) Act, 1973 (11 of 1973), Section 13(2)(ii)(a) – Sub-letting – Ejectment of the respondents sought on the ground of subletting -- Respondent no. 1 admitted that he has parted with the possession of demised premises in favour of Ram Kumar -- No material on record to support the allegation of collusion – Nothing on record to attribute any motive on the part of respondent no.1 to collude with the petitioner – No adverse inference can be drawn.

There is no material on record to support the allegation of collusion between the petitioner and Nagar Mal. It is strange that if Nagar Mal has wanted to tell the truth by admitting the claim of the petitioner, an adverse inference has been drawn against him. There is nothing on record to attribute any motive on the part of Nagar Mal to collude with the petitioner by executing the Rent Note.

(Para 15)

B. Haryana Urban (Control of Rent and Restriction) Act, 1973 (11 of 1973), Section 13(2)(ii)(a) – Sub-letting – Onus of Proof -- Landlord is only