

Before Satish Kumar Mittal, J

JOGIINDER SINGH & OTHERS—*Petitioners*

versus

THE FINANCIAL COMMISSIONER, REVENUE, PUNJAB &
OTHERS—*Respondents*

C.W.P. No. 351 of 1986

5th February, 2003

Constitution of India, 1950-Art. 226-Punjab Bhudan Yagna Act, 1955-S. 17-Punjab Land Revenue Act, 1887-Ss. 13 & 16-Sanction of mutation of land in favour of Board on the basis of a gift deed-Challenge by the petitioners on the basis of an unregistered will in their favour-Collector setting aside orders of the A.C. Ist Grade-Commissioner affirming orders-Revision petition before the Financial Commissioner by an ex-Secretary of Board-After the dissolution of the Board, Ex-secretary not competent to file the petition-Whether the F.C. has jurisdiction to entertain such a petition-Held, yes-F.C. has wide power u/s 16 of the 1887 Act and he suo motu can go into the question of fact as well as law-However, such powers cannot be exercised without affording an opportunity of hearing to the affected persons-Petitioners failing to establish validity of the unregistered will before the Civil Court-Findings of the Collector as well as the Commissioner totally perverse and against the well settled principle of law regarding execution & validity of the Will—No infirmity or illegality in the findings recorded by the F.C. in setting aside the orders of the Collector & the Commissioner-Writ Petition as well as the Regular Second Appeals liable to be dismissed.

Held, that I find no jurisdictional error in the impugned order. Section 16 of the 1887 Act clearly empowers the Financial Commissioner to set aside any order passed by his subordinate revenue officer in exercise of his suo motu power. The only impediment in his power is that before setting aside an order passed by his subordinate officer, he has to provide an opportunity of hearing to the interested parties. The Financial Commissioner passed the impugned order after hearing learned counsel for both the parties. It is not the case of the petitioners that before setting aside the orders passed by the Collector as well as the Commissioner, they have not been heard. The Financial

Commissioner has wide power under section 16 of the Revenue Act and he can go into question of fact as well as law. His power is wider than the revisional powers of the High Court under Section 115 of the Code of Civil Procedure.

(Para 20)

Further held, that the Financial Commissioner has rightly set aside the findings of Collector and the Commissioner which were totally perverse and against the well settled principle of law regarding execution and validity of the Will. I find no infirmity or illegality in the findings recorded by the Financial Commissioner in this regard, particularly, when the petitioners have failed to establish the validity of their claim regarding the Will even before the Civil Court.

(Para 23)

A.S. Cheema, Senior Advocate, with Pawan Sharma, Advocate and Surjit Singh, Senior Advocate with Meenakshi, Advocate, *for the petitioners*

Sukant Gupta, DAG, Punjab *for respondents* No. 1 and 2

K.G. Chaudhary, Advocate *for respondents* No. 3 to 6.

R.S.A. NO. 2385 of 1993

Joginder Singh

versus

Kapur Singh and others

* * *

A.S. Cheema, Senior Advocate, with Pawan Sharma, Advocate, *for the appellant.*

K.G. Chaudhary, Advocate, *for the respondents.*

* * *

R.S.A. No. 2395 of 1993

Puran Singh

Versus

Kapur Singh and others

A.S. Cheema, Senior Advocate, with Pawan Sharma,
Advocate *for the appellant.*

K.G. Chaudhary, Advocate, *for the respondents.*

R.S.A. No. 2396 of 1993

Bakhshish Singh

versus

Kapur Singh and others

* * *

A.S. Cheema, Senior Advocate, with Pawan Sharma,
Advocate *for the appellant.*

K.G. Chaudhary, Advocate, *for the respondents.*

R.S.A. NO. 2401 of 1993

Mukhtar Singh and others

versus

Kapur Singh and others

* * *

A.S. Cheema, Senior Advocate, with Pawan Sharma,
Advocate *for the appellant.*

K.G. Chaudhary, Advocate, *for the respondents.*

R.S.A. No. 2450 of 1993

Harbans Singh and others

versus

Kapur Singh and others

A.S. Cheema, Senior Advocate, with Pawan Sharma,
Advocate *for the appellant.*

K.G. Chaudhary, Advocate, *for the respondents.*

JUDEMENT

Satish Kumar Mittal, J.

(1) This judgment shall dispose of Civil Writ Petition No. 351 of 1986 and the Regular Second Appeals No. 2385, 2395 2396 2401 and 2450 of 1993, which have been ordered to be heard along with aforesaid writ petition.

(2) The instant writ petition has been filed by the petitioners, who are beneficiaries of the Will dated 5th September, 1962, alleged to have been executed by Smt. Chanan Kaur, under Articles 226/227 of the Constitution of India, for quashing of the order dated 25th November, 1985 (Annexure P-6), passed by the Financial Commissioner, Revenue, Punjab, Chandigarh, -vide which the orders dated 18th October, 1982 and 19th December, 1983, passed by the Collector as well as the Commissioner, respectively, were set aside.

(3) The brief facts of the case are that one Smt. Chanan Kaur, widow of Sardar Triloki Nath, was owner of the agricultural land, situated in two villages, namely Mand Miani Jhanduwala and Mand Sardar Sahib Wala, both in Tehsil and District Kapurthala, which is subject matter of the present controversy. She died issueless on 23rd November, 1962. Consequent upon her death, the question regarding inheritance of her aforesaid land arose, for which two claims were made. One claim was made by the petitioners on the basis of an unregistered Will dated 5th September, 1962, alleged to have been executed by Smt. Chanan Kaur and the second claim was made by the Punjab Bhudan Yagna Board on the basis of a gift deed dated 26th March, 1959, executed by Smt. Chanan Kaur in its favour. Respondents No. 3 to 5, who were cultivators on some part of the land, supported the claim made by the Punjab Bhudan Yagna Board. Initially, two mutations had been sanctioned in favour of the petitioners on 9th April, 1981 on the basis of the aforesaid unregistered will dated 5th September, 1962, but the said mutations were contested by the Punjab Bhudan Yagna Board on the ground that Smt. Chanan Kaur had already donated her entire land situated in the aforesaid two villages to it and she never executed the aforesaid alleged will in favour of the petitioners.

(4) The Assistant Collector Ist Grade (hereinafter referred to as the AC Ist Grade) invited objections to the aforesaid two mutations sanctioned in favour of the petitioners. Both the parties led their evidence. After considering the evidence led by the parties and hearing the arguments, the AC Ist Grade found that the alleged Will dated 5th September, 1962 relied upon by the petitioners had not been proved according to law and the same was a forged document. In this regard, he recorded the following findings :

“The said Will saw the light of the day more than 18 years after the death of its executant is in itself a highly suspicious circumstance. I further notice a couple of more discrepancies which support my view that the Will at Ex. A1 is not a genuine document. And, these are ; firstly it is mentioned in the Will that the lands for which the Will was executed are situate in Tehsil Bholath but it is a point of fact that the tehsil Bholath was not in existence during the year 1962 when the Will was allegedly executed and ; secondly there is a variation in the statement of A.W.1 who stated that the Sardarni had given a kacha draft of the Will in Hindi to the Typist for typing out the Will in English and the statement made by A.W.2 during cross-examination to the effect that the Sardarni was telling substance of the Will in Punjabi to the Typist who then typed the same in English. These two points too remained unexplained to my satisfaction. Thus in view of this detailed discussion, I am satisfied that the Will dated 5th September, 1962 at Ex. A1 is a forged document and no reliance can be placed thereon.”

(5) Regarding the gift deed dated 26th March, 1959, executed by Smt. Chanan Kaur in favour of Punjab Bhudan Yagna Board, it was held that the said gift deed was duly signed by Smt. Chanan Kaur in presence of a public gathering and that meeting was presided over by Sardar Partap Singh Kairon, the then Chief Minister, Punjab. Even the petitioners did not challenge the genuineness of the aforesaid donation papers (Gift deed) or the signatures of the donor, namely Smt. Chanan Kaur, the marginal witness or the Chief Minister on the said document. Their only objection before the revenue authorities

was that the aforesaid gift deed dated 26th March, 1959 cannot be treated as a validly executed document, because it is neither properly stamped nor registered one. This document was further objected on the ground that the procedure prescribed under Section 17 of the Punjab Bhudan Yagna Act, 1955 (hereinafter referred to as the Bhudan Act') was not followed. The said Section lays down the procedure for making donation of land in favour of Punjab Bhudan Yagna Board, which was not followed in the instant case. While rejecting the aforesaid contention raised by the petitioners, the AC Ist Grade recorded the following findings :

"I have considered over the matter and find that the procedure laid down in Section 17 *ibid* was, no doubt, not followed by Sardarni Chanan Kaur for donating her land to the Bhudan Board but, in my view, this was only a technical omission on the part of her advisers. This being so, her wish for donating her land to the Bhudan Board cannot be doubted so long the donation paper at Ex. R.1 is not held to be a forged document. It may be repeated, as stated earlier, that its genuineness has not been questioned. The other objection raised by Mr. R.C. Dhillon counsel for the beneficiaries of the Will at Ex A-1 is that copies of jamabandi which are said to be attached with the donation paper are not actually attached therewith and this omission would lean towards vagueness of the land mentioned in the said donation paper. However, I over-rule this objection in consideration of the view that the acreage of the lands donated by Sardarni Chanan Kaur in the two villages for use in accordance with the programme of Shri Vinobha Bhave for useful purposes is duly mentioned in the donation paper. In the context of this discussion, I hold that the donation paper at Ex. R. 1 is a validly executed document and represents the last wish of Sardarni Chanan Kaur for the disposal of her land situate in villages Sardar Sehawal and Miani Jhanduwala."

(6) After recording the aforesaid findings in favour of the Punjab Bhudan Yagna Board, the AC Ist Grade sanctioned mutations

regarding the land situated in aforesaid two villages in its favour vide his order dated 9th February, 1982.

(7) Feeling aggrieved against the aforesaid order, the petitioners filed the appeal before the Collector, Kapurthala under Section 13 of the Punjab Land Revenue Act (hereinafter referred to as the Revenue Act). The Collector, without properly considering and appreciating the facts brought on record by the parties, had set aside the order dated 9th February, 1982 passed by the AC Ist Grade and sanctioned the mutation of the land in question belonging to Smt. Chanan Kaur, situated in two villages, in favour of the petitioners on the basis of the alleged unregistered Will. While setting aside the well considered and well reasoned findings of the AC Ist Grade, the Collector observed as under :—

“So far as the question of the validity of the Will presented by the appellants is concerned many doubts have been raised by the learned counsel for the respondents, to which the learned counsel for the appellants has tried to offer a satisfactory explanation. The circumstances of the life of Smt. Chanan Kaur as they have been explained that she lived in Haridwar for long many years and was attended upon by a few ladies since she had no offspring. The possibility of her developing a benign feeling towards those who served upon her and compensating them and their children for their services by willing her property in their favour cannot be ruled out. Most of the doubts expressed against her having made the Will have been well explained. Though it seems that there are some suspicious circumstances regarding the late presentation of the Will but it has not been established beyond doubt that it is not a genuine document. Smt. Chanan Kaur seems to have been a not very intelligent and clear headed lady, though she seems to have a charitable disposition. On one hand she tried to donate some of her property for Bhudan movement and on the other she tried to oblige those ladies who actually rendered a long service in her later life. In view of the foregoing discussion I am inclined to differ with the conclusion drawn by the lower court.

Accordingly, I accept the appeal and order that the land in question be mutated in favour of the appellants on the basis of the Will.”

(8) Regarding the validity of the gift deed, the Collector observed as under :—

It has not been established by the learned counsel for the appellants that the paper donating land to the Bhudan Board is a forged document. It has got the signatures of the then Chief Minister and others. But I find there is weight in his contentions that proper procedure in affecting the donation of land and its subsequent acceptance by the Board and further its mutation being entered in the name of the Board has been violated to such an extent that the fact of donation and the procedure followed thereafter loses its validity. The offer was made to the then Chief Minister rather than to the Board, the Board has not observed any part of the procedure laid down, the Board has not observed any part of the procedure laid down in the provisions of the Budan Act for accepting the gift and then getting it mutated by a Revenue Officer. After a long lapse of time, which though is not too much material the paper was obtained some how and then sent to the Revenue Officer. The details of land owned by Smt. Chanan Kaur and those mentioned in the donation paper do not tally, the particulars are grossly incomplete, thus rendering the donation paper completely vague as to what exactly did Chanan Kaur want to donate to the Bhudan Movement. On the one hand the question of donation of land to Bhudan Board has been procedurally and factually rendered vague and on the other hand another party has presented a Will of the land owned by Chanan Kaur. So I am inclined to agree with the learned counsel for the appellants that this case does not concern exclusively the proceedings under Bhudan Act but the question is whether the land should be mutated in favour of the Bhudan Board or the persons possessing the Will.”

(9) The aforesaid order passed by the Collector was affirmed in appeal by the Commissioner vide order dated 19th December, 1983.

(10) Feeling aggrieved against the orders of the Collector as well as the Commissioner, Punjab Bhudan Yagna Board and some of the cultivators of the land filed revision petition before the Financial Commissioner, Revenue, Punjab, under Section 16 of the Revenue Act. Before the Financial Commissioner, the petitioners raised a preliminary objection to the effect that the Punjab Bhudan Yagna Board has been dissolved vide Punjab Government Notification dated 5th November, 1982. In exercise of the powers conferred by sub-clause (iii) of Clause (c) of sub-section (1) of Section 15 of the Bhudan Act, the duties, powers and functions of the Punjab Budan Yagna Board were conferred upon the Deputy Commissioner, Ferozepur, therefore, a contention was raised that the Ex-Secretary of the Punjab Budan Yagna Board was not competent to file the revision petition on its behalf. The Financial Commissioner, though accepted the said contention raised by the petitioners and held that the Ex-Secretary was not competent to file the revision petition in terms of the aforesaid notification, which could only be preferred by the Deputy Commissioner, Ferozepore, however, the Financial Commissioner decided to continue with the case on merits in exercise of his *suo motu* power provided under Section 16(1) of the Revenue Act. Thereafter, the Financial Commissioner, on examining the matter on merits and after perusing the record as well as after hearing the learned counsel for both the parties, set aside the orders dated 18th October, 1982 and 19th December, 1983, passed by the Collector as well as the Commissioner, respectively. The Financial Commissioner held that the alleged unregistered will is not a genuine document and execution of the same has not been proved on record. He recorded the following findings in this regard :

I have care fully examined the original unregistered Will.

I find that the signatures of Smt. Chanan Kaur on the donation paper and those on the unregistered Will which has been produced in original do not tally. The signatures of Smt. Chanan Kaur on the original unregistered Will which is alleged to be signed on 5th September, 1962 by Chanan Kaur and the donation is dated on 26th March, 1959, do not co-appear to be

the same. The signatures of Smt. Chanan Kaur on the will lack the firmness which is evident in the signatures appended on the donation paper. Furthermore, suspicion attaches to the original will as it has been produced on 11th September, 1981 i.e. virtually 19 years after its execution on the 5th September, 1962. Another fact which creates doubt about the genuineness of the will is that it is mentioned in it that villages Mand Sardar Sahibwala and Mand Jhanduwala are situated in tehsil Bathinda whereas this sub-Tehsil was formed on 1st April, 1970. It was not possible to show Bholath as a tehsil in 1962 as has been done in the unregistered will. It cannot, therefore, be believed that the will was executed on 5th September, 1962. I am unable to consider this will as a genuine document and suspicion attaches to it. The respondents are free to go to a court of competent jurisdiction to prove the veracity of this will.”

(11) Regarding the gift deed dated 26th March, 1959, it was held as under :-

“The veracity of the donation paper has not been questioned at any stage. The Deputy Commissioner and the Commissioner in their orders have considered this paper to be a declaration of intent rather than the actual donation as it is not filed in the prescribed form. I find that there is no time limit laid down in section 17 of the act under which after the donation is made the procedure as contained in sub-sections (1) to (7) has to be followed. The Deputy Commissioner, Ferozepur can still forward the donation paper as accepted by S. Partap Singh Kairon, Chief Minister, Punjab, to the Revenue Officer jurisdiction in the tehsil where the land is situated to proceed further as required under the relevant sub-sections of Section 17 of the Act *ibid.*”

(12) The aforesaid order dated 25th November, 1985, passed by the Financial Commissioner has been challenged in the present writ petition.

(13) During the pendency of this writ petition, the petitioners separately instituted five civil suits for permanent injunction against the cultivators of the land, who are also party in this writ petition, in the Court of Senior Sub Judge, Kapurthala. In those suits, the petitioners claimed themselves to be owners in possession of the land in question on the basis of the aforesaid alleged unregistered Will dated 5th September, 1962. The defendants in those suits, who are cultivators of the land, claimed themselves to be tenants of the Punjab Bhudan Yagna Board and contested the suit on the ground that the land in question was donated by Smt. Chanan Kaur by way of gift deed to the Punjab Bhudan Yagna Board, as a result of which they were cultivating the land as tenants under it. In those suits, various issues were framed, including the following two issues :

Whether the plaintiff is owner in possession of the land in dispute ? OPP

Whether the original owner of the land in dispute was Chanan Kaur and she donated the land in dispute to Bhudan Board ? OPD

(14) Those suits were dismissed by Senior Sub Judge, Kapurthala on 25th September, 1990. The said judgments and decrees were confirmed by the learned Additional District Judge-vide judgments and decrees dated 30th July, 1993, against which the aforesaid five R.S.A. were filed in this Court, which were ordered to be heard along with the present writ petition.

(15) In the civil suits also, the petitioners, who were plaintiffs there, could not establish validity of the alleged Will dated 5th September, 1962. Their whole claim was based on the aforesaid Will but the same was not even produced and proved before the civil Court. While dismissing the appeal (in RSA No. 2450 of 1993) filed by the appellant Mohan Singh, the learned Additional District Judge held as under :

“The plaintiff in the cross-examination had stated that the property was given to him by Chanan Kaur by virtue of will. No will had been produced on the record nor it had been proved according to law. The plaintiff had not proved as to how and from where he derived title

to the property. There is no evidence to prove that how and in which manner the plaintiff came in possession of the suit property. The plaintiff had miserably failed to prove para No. 1 of the plaint and that he was the owner in possession of the suit property.”

(16) I have heard learned counsel for the parties and have perused the record of the writ petition as well as the Regular Second Appeals.

(17) Learned counsel for the petitioners, who is also appearing on behalf of the appellants in the RSAs, has vehemently argued that the order dated 25th November, 1985, passed by the Financial Commissioner, is wholly without jurisdiction because once it was found that the revision petition filed by the Punjab Bhudan Yagna Board was not maintainable, the Financial Commissioner was having no jurisdiction to entertain the said petition in exercise of his suo motu power under Section 16(1) of the Revenue Act and set aside the orders passed by the Collector as well as the Commissioner. Learned counsel, while referring to para 9 of the impugned order, argued and pointed out that not only the said revision petition filed by the Punjab Bhudan Yagna Board was considered but the same was accepted and the orders passed by the Collector as well as the Commissioner were set aside. He submitted that once it was found by the Financial Commissioner that the Ex-Secretary was not competent to file the revision petition on behalf of the Punjab Bhudan Yagna Board, then the said revision petition should not have been entertained by the Financial Commissioner and by passing the order on the same, he has wholly acted without jurisdiction. In support of this contention, learned counsel for the petitioners relied upon the decisions in *Ajmer Singh and another* versus *The Superintending Canal Officer, Hissar and others* (1), *Sadr Anjman Ahmedia* versus *Director Consolidation and others* (2), *Siranja Singh and another* versus *The State of Punjab and others* (3) *Radha Soami Satsang Beas* versus *State of Himachal Pradesh and another* (4) and *Mehar Chand and others* versus *Financial Commissioner Haryana and others* (5).

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- (1) 1979 PLR 359
 - (2) 1983 CLJ (C & Cr.) 12
 - (3) 1983 PLJ 432
 - (4) 1984 PLJ 535
 - (5) 1991 PLJ. 78

(18) Learned counsel for the petitioners further contended that the Financial Commissioner should not have set aside the findings recorded by the Collector as well as the Commissioner on the point of the alleged Will dated 5th September, 1962 in his revisional jurisdiction. He submitted that the Collector as well as the commissioner, after considering the validity of the alleged Will, have recorded a finding in favour of the petitioners, while holding the alleged Will as a genuine document. Learned counsel for the petitioners also assailed the findings recorded by the Financial Commissioner on the issue of gift deed executed by Smt. Chanan Kaur in favour of Punjab Bhudan Yagna Board, as while accepting the donation and while executing the aforesaid document, the mandatory provisions of Section 17 of the Bhudan Act were not complied with. Learned counsel for the petitioners further argued that the Financial Commissioner, after setting aside the orders of Collector as well as the Commissioner, remanded the matter to the Deputy Commissioner, Ferozepur, who was not the competent authority to sanction the mutation. According to him, only the AC 1st Grade is the competent authority under the Revenue Act, therefore, a grave illegality has been committed and the matter has been remanded to an authority, which has no jurisdiction under the Revenue Act to sanction the mutation.

(19) On the other hand, learned counsel for the State as well as the other respondents, who are cultivators of the disputed land have submitted that there is no illegality or infirmity in the order passed by the Financial Commissioner. It has been submitted that the Financial Commissioner has suo motu power under Section 16 (1) of the Revenue Act to set aside any order passed by his subordinate officer. Such suo motu power under Section 16 (1) of the Revenue Act to set aside any order passed by his subordinate officer. Such suo motu power can be exercised by the Financial Commissioner at any time in the interest of justice either on the application of an interested party or on his own motion. It was further argued that the revision petition was not only filed by the Punjab Bhudan Yagna Board, but it was also filed by the cultivators of the land in question, and as far as their revision petition was concerned, the same was maintainable. Therefore, there was no jurisdictional error in the order passed by the Financial Commissioner. It was further argued that the alleged Will dated 5th September, 1962 was a forged document and the same was never established either before the revenue Court or before the civil

Court. If it is not held to be proved, then the petitioners have no claim for the land in question belonging to Smt. Chanan Kaur, which was validly donated by her during her life time to the Punjab Bhudan Yagna Board.

(20) After hearing the arguments of learned counsel for both the parties, I am of the opinion that there is no merit in the present writ petition filed by the petitioners. I find no jurisdictional error in the impugned order. Section 16 of the Revenue Act clearly empowers the Financial Commissioner to set aside any order passed by his subordinate revenue officer in exercise of his suo motu power. The only impediment in his power is that before setting aside an order passed by his subordinate officer, he has to provide an opportunity of hearing to the interested parties. In the present case, the Financial Commissioner passed the impugned order after hearing learned counsel for both the parties. It is not the case of the petitioners that before setting aside the orders passed by the Collector as well as the Commissioner, they have not been heard. The Financial Commissioner has wide power under Section 16 of the Revenue Act and he can go into question of fact as well as law. His power is wider than the revisional powers of the High Court under Section 115 of the Code of Civil Procedure.

(21) I find no force in the contention of learned counsel for the petitioners that the Financial Commissioner had acted without jurisdiction, while entertaining the petition after holding that the revision petition filed on behalf of the Punjab Bhudan Yagna Board was not maintainable. The Financial Commissioner, in his suo motu power, can entertain the petition, though not filed by the competent person. In the present case, the petition before the Financial Commissioner was filed jointly by the Punjab Bhudan Yagna Board and by its tenants i.e. cultivators of the land in question who are the interested persons and when they were party to the litigation throughout from the very beginning, they were entitled to maintain revision petition against the orders passed by the Collector as well as the Commissioner. Therefore, it cannot be said at all that while entertaining the revision petition filed by those persons, the Financial Commissioner has exceeded his jurisdiction.

(22) The decisions cited by learned counsel for the petitioner in support of the contentions are not applicable to the facts and circumstances of the present case. The decision in Ajmer Singh's case (supra) was rendered in a case which arose from the proceedings

under the Northern India Canal and Drainage Act, 1973. Similarly, the decision in Sadr Anjman Ahmedia's case (supra) was rendered while interpreting Section 42 of the East Punjab Holdings (Consolidation and Prevention of Fragmentations) Act. In that case, two persons who were neither land owners nor tenants nor mortgagees in possession filed an application under Section 42 of the aforesaid Act for setting aside some order passed by the consolidation authorities. The said application was allowed by the Director, Consolidations. This Court, while setting aside the order of the Director, Consolidations, observed that the persons who filed application under Section 42 of the said Act were not the interested persons and they were held not entitled to file the aforesaid application. When learned counsel for the respondents in that case submitted that the Director had jurisdiction to pass any order to correct the apparent mistake in the record of rights prepared during the consolidation operations, it was observed that the Director in that case had not invoked suo motu power and had only passed the order on the basis of application filed by those persons, therefore, order passed by the Director was set aside. In the present case, the position is different. Here the Financial Commissioner has expressly exercised his suo motu power ; entertained the revision petition and set aside the orders passed by the Collector as well as the Commissioner. In Radha Soami Satsang Beas's case (supra), it was only observed that the suo motu power of revision under Section 16 of the Revenue Act cannot be exercised without providing an opportunity of hearing to the effected persons, but that is not the present case. Admittedly, the impugned order was passed by the Financial Commissioner, after providing an opportunity of hearing to the petitioners. The other two referred cases are also not relevant to the present controversy.

(23) The claim of the petitioners for sanctioning the mutations in their favour is solely based upon the alleged Will dated 5th September, 1962. Admittedly, they are not in the relation of Smt. Chanan Kaur and claimed the land in question on the basis of inheritance. The AC Ist Grade had recorded sound reasonings while discarding the alleged Will. In my opinion, the Financial Commissioner has rightly set aside the findings of Collector as well as the Commissioner on this issue, which were totally perverse and against the well settled principle of law regarding execution and validity of the Will. I find no infirmity or illegality in the findings recorded by the Financial Commissioner in this regard, particularly when the petitioners have failed to establish the validity of their claim regarding the Will even before the civil Court.

(24) The contention of learned counsel for the petitioners that the Financial Commissioner has exceeded his jurisdiction, while remanding the matter to the Deputy Commissioner, is without any force. Actually, *vide* the impugned order the matter regarding sanction of mutation has not been remanded to the Deputy Commissioner. The Financial Commissioner has set aside the orders of the Collector as well as the Commissioner. The net result of setting aside the orders of these two authorities is to restore the order of the AC Ist Grade. The Financial Commissioner has not remanded the matter to the revenue Court to re-determine the matter regarding sanctioning of the mutation. What the Financial Commissioner has done in the case is that after setting aside the orders of the Collector as well as the Commissioner, he remanded the matter to the Deputy Commissioner, Ferozepur to deal with the land in question as after the dissolution of the Punjab Bhudhan Yagna Board *vide* Notification dated 5th November, 1982, the Deputy Commissioner is only authorised to exercise and perform the duties, powers and functions of the Punjab Bhudhan Yagna Board; so that he can take necessary action for completing the needful requirements regarding the donation papers as per Section 17 of the Bhudhan Act. I find no illegality or irregularity in the said order. The contention of learned counsel for the petitioners that this part of the order is actually a remand of the cast pertaining to mutation, is misconceived. Thus, I find no force even in this contention of learned counsel for the petitioners.

(25) I have also gone through the judgments passed by both the Courts below in the aforesaid Regular Second Appeals. Both the Courts below have recorded a concurrent finding of fact while dismissing the suit for permanent injunction. I find no infirmity or illegality in the judgments rendered by both the Courts below. No substantial question of law either been raised before me nor arise in these appeals. Learned counsel for the appellants, who is also representing petitioners in the writ petition, did not raise any substantial argument for taking a different view in these appeals as has been taken by the Courts below.

(26) In view of the aforesaid discussion, I find no merit in the writ petition as well as the Regular Second Appeals. The same are hereby dismissed with no order as to costs.

R.N.R.