

[Board of Revenue, Punjab]

Before Waheed Akhtar Ansari, Member (Judicial-III)

Mst. RABIA GUL—Petitioner

Versus

Mst. ZAHIDA NAZLI and others—Respondents

ROR No.2946 of 2012, decided on 23rd January, 2014.

Syed Tajamal Hussain Bokhari for Petitioner. Muhammad

Jaffar Khan for Respondent No. 1.

Law Involved:

- West Pakistan Land Revenue Act (XVII of 1967), Sections 163(2)(c), 164.

ORDER

{MR. WAHEED AKHTAR ANSARI, Member (Judicial-III).....This revision petition has been filed against order dated 7-5-2009, passed by learned Executive District Officer (Revenue), Multan, whereby revision petition of the present respondent No. 1 was accepted.

2. Arguments heard and record perused.

3. Learned counsel for the petitioner argued that the petitioner is a parda-observing lady. She is owner of 6-marlas and 15 yards land, which is in her possession. The said land was purchased by her through registered Sale-deed No.6531, dated 17-9-2001 from Abdul Rashid husband of Mst. Zahida Nazli, present respondent No.1. The said transaction was got implemented in the Revenue Record through Mutation No. 18428, dated 19-2-2007. However, the respondents did not implead the petitioner in the revision petition titled Mst. Zahida Nazli v. Mehmood-ul-Hassan and others filed in the court of learned Executive District Officer (Revenue), Multan, which was accepted in the absence of petitioner vide order dated 7-5-2009. The said order was passed in the absence of petitioners, which is against the norms of justice. As it is a well-settled principle of law that if rights of persons are affected through an order then, it should be passed at least after hearing his contention. But in the instant case, this principle was not adhered to after obtaining order dated 7-5-2009, Mutation No.20047, dated 29-6-2009 was sanctioned in favour of the respondents. The respondents were well aware about the fact of sale of the land in question to the petitioner. The revision petition of the respondents was time-barred by more than 5 years and the respondents obtained order dated 7-5-2009 by concealment of facts. The said order was against clause 24-A of the General Clauses Act. Reliance was placed on 1998 SCMR 2268. The petitioner is bona fide purchaser of the land in question and mutation was also

sanctioned in her favour. But the learned Executive District Officer (Revenue), Multan, cancelled the mutation without any cogent reasons, which was sanctioned lawfully. Lastly, it was prayed that the revision petition may be accepted.

4. Learned counsel for the respondents contended that the respondent No.1 sold her land measuring 13-marlas, 15 yards to Muhammad Hanif etc, through Sale-deed No.209, dated 27-2-1973. However, the said transaction was not implemented hi the Revenue Record. The said land was later on sold to Ch: Muhammad Din, present respondent No.5. The said purchaser presented application to the learned District Collector for implementation of the said registered sale deed in the Revenue Record. The learned District Collector accepted the application and permission to review the Mutation No.5937 was granted. The respondent also purchased the land measuring 16-marlas from the same vendor (Mehmood ul Hassan) through Sale-deed No. 1629, dated 30-3-1973, which was got implemented through Mutation No.5937, dated 23-7-1986. The respondents purchase was earlier than the petitioner's purchase. The said transaction was implemented in the Revenue Record vide Mutation No.942, dated 31-8-1975 and No.950, dated 26 1-1976. The learned EDOR rightly accepted the revision petition of the present respondents through a justified order. No irregularity or illegality has been committed in the same. While concluding the arguments, it was prayed that the revision petition may be dismissed.

5. I have considered the arguments of learned counsel for the parties and perused the record available in the case file including the impugned orders. Brief of the matter is that respondent No.5 Ch. Din Muhammad filed an application on 30-10-1989 before learned District Collector, Multan with the contention that he purchased land measuring 13-marlas and 15 yards situated in Mauza Taraf Mubarik Awal, Tehsil Multan City through registered Sale-deed No. 1796, dated 3-4-1973 and same may be implemented hi the Revenue Record. The learned District Collector, Multan after obtaining report from the revenue field staff granted permission vide order dated 30-10-1999 for the implementation of the said sale-deed in the Revenue Record after reviewing the Mutation No.5937. Feeling aggrieved by the order, Mst. Zahida Nazli, the present respondent No.1 preferred a revision petition in the court of learned Executive District Officer (Revenue), Multan, which was accepted vide order dated 7-5-2009. The operative part of the order is reproduced as under:—

"I have heard both the learned counsel of the parties and also perused he record carefully. It is evident from the record that sale-deed of the petitioner was registered earlier than the sale deeds of Ilahi Bakhsh and Sultan Ahmad. In this way Mutations Nos.942 and 950 which were sanctioned on the basis of Sale-deeds Nos.1635 and 1637 were required to be reviewed.

In view of the aforementioned reasons, I accept the revision petition and grant necessary permission to review the Mutations Nos.942 and 950 along with the subsequent mutations if any sanctioned on the basis of ibid mutations."

During arguments learned counsel for the petitioner mentioned that vide impugned order the permission has been granted to review Mutation No.942 dated 31-8-1975, Mutation No.950 dated 26-1-1976 and subsequent mutations sanctioned as consequence of above mentioned Mutation No.950. He further mentioned that in

consequence of above mutations, Mutation No. 18428 dated 19-2-2007 has been passed on the basis of Sale-deed No.6531 dated 17-9-2001, whereby the impugned land was purchased from Dr. Abdul Rasheed (husband of respondent No.1) by Mst. Rabia Gull, the present petitioner. The learned counsel showed the apprehension that in consequence of impugned order the mutation passed in favour of the present petitioner would also be reviewed without giving an opportunity to the petitioner, as they are not party to those proceedings.

6. In the wake of above position, the revision petition is disposed of with the observation that the learned Collector shall give ample opportunity of hearing to the petitioner while disposing of the matter of review of Mutations Nos.942 and 950 and parties relating to other consequent mutations sanctioned on the basis of above mutations in terms of the provision of section 163(2)(c), which reads as under:—

"an order shall not be modified or reversed unless reasonable notice, has been given to the parties affected thereby to appear and be heard in support of the order;"