

130 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-2798-2025 (O/M)

Date of decision : 13.05.2025

Pushpa Rani

..... Petitioner

Versus

Commissioner Gurugram Division, Gurugram
and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present :- Mr. Sudhir Aggarwal, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG Haryana.

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HARSH BUNGER, J. (ORAL)

1. Petitioner (Pushpa Rani) has filed the instant civil writ petition under Articles 226/227 of Constitution of India, inter alia, seeking a writ in the nature of certiorari for setting aside order dated 03.07.2024 (Annexure P-6), passed by learned Commissioner, Gurugram Division, Gurugram (in short 'Divisional Commissioner').

2. Briefly, petitioner is stated to have purchased land measuring 26 Kanal – 10 Marla from M/s R.K. Enterprises Pvt. Ltd. (respondent No. 4 herein) and another 8 Kanal of area from one Karam Singh son of Ram Rekh, vide sale deed dated 22.07.2016. It is stated that on the basis of aforesaid sale deed dated 22.07.2016, mutation No. 2411 (Annexure P-1) was also entered in favour of the petitioner.

2.1 It appears that the Assistant Collector 2nd Grade, Gurugram (in short 'Assistant Collector') referred the aforesaid mutation No. 2411

alongwith other mutation No. 2422 to learned Collector, Gurugram (in short 'Collector') for review.

2.2 Learned Collector, vide order dated 07.09.2018, granted permission to review, whereupon Assistant Collector 1st Grade, Gurugram (North), passed an order dated 22.10.2018 (Annexure P-2), whereby both mutations No. 2411 and 2422 were cancelled holding that the sale of land and entry of mutation was on the basis of forged documents.

2.3 It transpires that one Bahadur Singh, in whose favour mutation No. 2422, was sanctioned; challenged order dated 22.10.2018 (Annexure P-2), passed by Assistant Collector 1st Grade, Gurugram (North), by preferring an appeal before learned Collector, which came to be allowed, vide order dated 04.11.2019 (Annexure P-3) and the matter was remanded back to the Assistant Collector 1st Grade, Gurugram (North) for deciding mutations No. 2411 and 2422 afresh after affording sufficient opportunity of hearing to concerned parties.

2.4 It further transpires that the Assistant Collector 1st Grade, Gurugram (North) proceeded ex-parte against M/s R.K. Enterprises Pvt. Ltd. and vide order dated 16.07.2021 (Annexure P-4) sanctioned both the mutations No. 2411 and 2422 holding that the same were on the basis of registered sale deed.

2.5 Evidently, respondent No. 4 (M/s R.K. Enterprises Pvt. Ltd.) challenged the order dated 16.07.2021 (Annexure P-4) by filing an appeal before learned Collector, which was dismissed, vide order dated 10.10.2023 (Annexure P-5).

2.6 Still aggrieved, respondent No. 4 (M/s R.K. Enterprises Pvt. Ltd.) preferred a revision petition before learned Divisional Commissioner, which came to be allowed, vide order dated 03.07.2024 (Annexure P-6) and the matter has been remanded back to Assistant Collector 1st Grade, Gurugram (North) to re-examine the matter.

3. In the aforementioned circumstances, petitioner has filed the instant civil writ petition before this Court seeking relief(s), as noticed hereinabove.

4. Heard.

5. In the present case, learned Divisional Commissioner, vide impugned order dated 03.07.2024 (Annexure P-6), has remanded the matter back to Assistant Collector 1st Grade, Gurugram (North) to re-examine the matter after providing a fair hearing to both the parties. The relevant extracts of order read as under :-

“21. After hearing the arguments and consideration of the documents available on the file the facts and chronology of the events are as under :-

(i) In the year 1986, R.K. Enterprises Private Limited purchased the disputed land in Village Behrampur, Tehsil Wazirabad, District Gurugram. At that time, the registered address of the company was 45/1 Krishan Bhawan, A Block, Connaught Place, New Delhi. The jamabandi for the year 2014-15 shows that R.K. Enterprises was recorded as the owner and possessor of the disputed land, measuring 95 Kanals 4 Marlas;

(ii) over time, the directors of R.K. Enterprises changed. Currently, the directors are Brahm Singh and Akash Mishra. The registered address of the company is

now 87 Industrial Area, opposite Sky Hotel, Chandigarh, with a local address at A-127, Second Floor, Niti Bagh, New Delhi;

- (iii) on 22.07.2016 a sale deed (vasika no. 1815) was allegedly executed fraudulently by Gajendra Singh Raghav and Navneet Singh Chadha, who falsely represent themselves as directors of R.K. Enterprises Pvt. Ltd.;*
- (iv) on 22.07.2016 another sale deed (vasika no. 3466) was allegedly executed under similar fraudulent circumstances, by Gajendra Singh Raghav and Navneet Singh Chadha, further transferring portions of the disputed land to the respondents. This sale deed is also registered at the Sub-Registrar's office in Sohna. Based on these sale deeds, mutations (nos. 2411 and 2422) were entered in favour of Bahadur Singh and Respondent No. 3;*
- (v) on 06.09.2018, R.K. Enterprises filed a criminal complaint (FIR no. 203) against the individuals involved in the fraudulent transactions with criminal conspiracy, cheating, forgery, and other offenses under sections 120-B, 419, 420, 467, 468 and 476 of the IPC., including Bahadur Singh, Rakesh Kumar, Gajender Singh Raghav and Navneet Singh Chadha. The complaint was registered at P.S. Badshapur, District Gurugram;*
- (vi) the Sub-Divisional Officer (Civil)-cum-Assistant Collector 1st Grade, Gurugram vide his order dated 22.10.2018, cancelled the mutations based on the allegedly fraudulent sale deeds after hearing the objections raised by R.K. Enterprises and considering the evidence of forgery;*
- (vii) Respondent No. 1, Bahadur Singh, files an appeal before the District Collector, Gurugram. The appeal*

misleadingly shows the petitioner's old address (45/1 Krishna Bhavan, A-Block, Connaught Place, New Delhi), resulting in inadequate representation of the petitioner. The District Collector, Gurugram, issues an ex-parte order dated 04.11.2019 setting aside the cancellation of the mutations and remanding the case for fresh decision after proper hearing. The order is based on the incorrect address provided by the respondents, leading to the petitioner not receiving proper notice.

(viii) After remand of the case to the SDO(C)-cum-Assistant Collector 1st Grade, Badshapur the petition was proceeded against ex-parte vide his interim order dated 2.7.2021.

(ix) The SDO(C)-cum-Assistant Collector 1st Grade, Badshapur, after re-hearing the arguments of the respondents vide his order dated 16.07.2021, sanctioned the mutations in favour of Bahadur Singh and others, citing procedural compliance and lack of a stay from the civil court on the registered sale deeds;

(x) The District Collector, Gurugram, on appeal, upheld the mutations vide his impugned orders dated 10.10.2023.

(xi) Aggrieved from the above orders dated 2.7.2021, 16.7.2021 of SDO(C)-cum-Assistant Collector 1st Grade, Badshapur and orders dated 10.10.2023 of the District Collector, Gurugram the present revision petition has been filed by the petitioner on 9.11.2023.

22. Upon careful consideration of the arguments and counter-arguments presented by both parties, as well as a thorough review of the relevant legal provisions and judicial precedents, the court finds several substantial issues that necessitate the setting aside of the impugned orders dated 10.10.2023, 02.07.2021 and 16.07.2021 and

remanding of the case for a fair hearing, keeping in view the following :-

- a) The court observes significant procedural lapses in the handling of the disputed mutations. The ex parte order issued by the District Collector on 04.11.2019 was based on incorrect addresses, which resulted in improper service of summons to the petitioner. This procedural deficiency denied the petitioner a fair opportunity to present their case, violating the principles of natural justice. Proper service of summons is a fundamental requirement to ensure that all parties have an opportunity to be heard. The failure to ensure proper service in this case has led to orders being passed without the petitioner's participation, warranting the setting aside of these orders.*
- b) The petitioner has presented evidence indicating that the sale deeds (vashika No. 1815 dated 22.07.2016 and vashika No. 3466 dated 27.10.2016) were allegedly executed fraudulently by individuals who falsely claimed to be directors of R.K. Enterprises Pvt. Ltd. The registration of these sale deeds and consequent mutations based on them are seriously called into question. The ongoing criminal proceedings, initiated by the petitioner through FIR No. 203 dated 06.09.2018, substantiate the claim of fraud and misrepresentation. The revenue officers' reliance on these questionable documents without proper verification further underscores the need for a thorough re-examination of the case.*

- c) *The Haryana Land Record Manual mandates stringent procedures for the preparation and verification of records-of-rights. This includes filed measurements and placing records in the public domain for objections. The court finds that these procedures were not adequately followed in the present case. The mutations were sanctioned without ensuring the authenticity of the sale deeds and without proper public notification and verification processes. These lapses have compromised the integrity of the land records, necessitating corrective action.*
- d) *The court acknowledges that while revenue officers have the authority to update revenue records based on registered documents, they are not equipped to adjudicate complex fraud claims. The proper forum for determining the validity of the sale deeds and addressing allegations of fraud is the civil court. The revenue authorities' reliance on the contested sale deeds without a judicial determination of their validity constitutes jurisdictional overreach. The court, therefore, deems it necessary to remand the case for a proper hearing where both parties can present their evidence, and a comprehensive examination of the claims can be conducted.*
- e) *While the respondents claim to be bona fide purchasers for value without notice of any defect in title, the presumption of validity of the sale deeds is rebuttable upon presenting evidence of fraud. The court must ensure that the rights of bona fide purchasers are protected*

while also upholding the integrity of the land records. Given the complexity of the issues involved and the significant procedural and substantive irregularities identified, a comprehensive review is essential. A remand will provide an opportunity to thoroughly investigate the claims and counter-claims, ensuring a fair and just resolution and will allow for a detailed re-examination of the case, ensuring that all relevant evidence is considered and that the legal and procedural requirements are fully complied with.

23. In light of the above, reasons, Mutation Nos. 2411 and 2422 and the impugned orders are set aside. The matter is remanded to the Sub-Divisional Officer (C)-cum-Assistant Collector 1st Grade, Badshapur, with directions to re-examine the matter after providing a fair hearing to both parties. Further transactions on the disputed land are prohibited until the resolution of the ongoing civil and criminal proceedings.”

5.1 A perusal of the above extracted finding returned by learned Divisional Commissioner would show that respondent No. 4 (M/s R.K. Enterprises Pvt. Ltd.) had purchased the land in question in the year 1986 and over a period of time, the directors of the said company changed and even the registered address of the company changed to 87, Industrial Area, Opposite Sky Hotel, Chandigarh, with the local address at A-127, Second Floor, Niti Bagh, New Delhi. It is further observed that the sale deed dated 22.07.2016 (Annexure P-1), on the basis of which the petitioner is claiming title; had been executed by Gajendra Singh Raghav and Navneet Singh Chadha, who were not the directors of the company

on the date of execution of aforesaid sale deed. Further, another sale deed dated 27.10.2016 had been executed by the aforesaid persons, namely, Gajendra Singh Raghav and Navneet Singh Chadha in favour of Bahadur Singh also and on those basis, mutations No. 2411 and 2422 were entered.

5.2 Apparently, on 06.09.2018, respondent No. 4 (M/s R.K. Enterprises Pvt. Ltd.) submitted a complaint, whereupon a case FIR No. 203 has been registered at Police Station Badshapur, District Gurugram. Learned Divisional Commissioner has returned a categorical finding that respondent No. 4 was not properly served as their address was incorrectly mentioned and in these circumstances, learned Divisional Commissioner thought it proper to remand the matter in order to provide an opportunity to the parties to submit their claims and counter-claims, which would ensure a fair and just resolution of the issue in hand.

6. During the course of hearing of this petition, on 03.02.2025, learned counsel for petitioner was called upon to place on record copy of munadi report alongwith copy of rojnamcha entry and also order dated 02.07.2021, whereby respondent No. 4 was proceeded against ex-parte.

6.1 In compliance of aforesaid order dated 03.02.2025, petitioner has filed an application (CM-6102-CWP-2025) for placing on record the munadi report, rojnamcha and order dated 02.07.2021 as Annexure P-12 and Annexure P-13, and for the reasons mentioned in the

application, same is allowed and Annexure P-12 and Annexure P-13 are taken on record subject to all just exceptions.

6.2 A perusal of the aforesaid documents (Annexure P-12 and Annexure P-13) would leave no manner of doubt that the summons were issued by the learned Collector to respondent No. 4 at the following address :-

“45/1 Krishna Bhawan, A-Block, Connaught Place, New Delhi”

6.3 Respondent No. 4 is stated to have been served through mustri munadi, which was evidently conducted in village Behrampur.

7. Learned counsel for petitioner could not dispute the fact that once the address of respondent No. 4 (M/s R.K. Enterprises Pvt. Ltd.) was stated to be at Delhi, the service upon respondent No. 4 through munadi conducted in village Behrampur cannot be construed to be a valid service. It is further noticeable that even the address of respondent No. 4, as reflected in the summons (Annexure P-12), is different from the address of respondent No. 4, mentioned in the Memo of Parties of the instant civil writ petition.

8. Considering the totality of circumstances, since respondent No. 4 was not validly served in the mutation proceedings and on that account, if learned Divisional Commissioner has remanded the matter to learned Assistant Collector 1st Grade, Gurugram, for deciding the mutation cases afresh after affording due opportunity of hearing to all concerned parties, no fault can be found with the same.

9. Resultantly, the instant civil writ petition fails and the same is accordingly dismissed.

10. Pending application (s), if any, shall also stand closed.

(HARSH BUNGER)
JUDGE

13.05.2025

sjks

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No