

CRM-M-38961-2016 (O & M)

2025.PHHC.122749



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
(116)

CRM-M-38961-2016 (O & M)

Reserved on:05.09.2025

Date of Pronouncement:09.09.2025

Bahadur Singh and ors.

..... Petitioner(s)

V/s

State of Punjab and anr.

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Harpreet K. Gill, Advocate, for the petitioner (s).

Mr. M.S. Toor, AAG, Punjab.

Mr. Prabhjot Singh Chahal, Advocate, for
Mr. G.S. Nagra, Advocate, for respondent No.2.

JASJIT SINGH BEDI, J. (Oral)

The prayer in the present petition under Section 482 Cr.P.C. is for quashing of FIR No.62 dated 11.06.2016 (Annexure P-1) under Sections 465, 466, 467, 468 and 120-B IPC registered at Police Station Sadar, Rupnagar, Punjab and all consequential proceedings arising therefrom.

2. The brief facts of the case are that Salwinder Singh (deceased), the father of the complainant-Raj Singh, Smt. Jagiro (deceased), Mohindro (deceased) and Jogindro (still alive) executed a General Power of Attorney (GPA) in favour of Jagtar Singh on 17.09.1996 with regard to the land in question. A copy of the same is attached as Annexure P-2 to the petition.



3. Based on the said GPA, Jagtar Singh executed a Special Power of Attorney (SPA) in favour of Rajinder Singh-petitioner No.3 and received a sum of Rs.36,750/- from Rajinder Singh. A copy of the Special Power of Attorney dated 01.10.1996 is attached as Annexure P-3 to the petition.

4. Rajinder Singh-petitioner No.3 gave the said land to Paramjit Kaur-petitioner No.2 for a total consideration of Rs.47,250/-. The entire sale consideration was paid by her to Rajinder Singh-petitioner No.3 and accordingly, Mutation No.512 was sanctioned in favour of Paramjit Kaur. A copy of the receipt dated 28.07.1998 referring to the Mutation No.512 dated 21.07.1998 is attached as Annexure P-5 to the petition.

5. After a gap of 18 years, Raj Singh son of Salwinder Singh (who had by then passed away in the year 2010) got registered the instant FIR stating that for the land mutated in favour of Paramjit Kaur vide Mutation No.512, land in exchange was to be transferred in the name of his father-Salwinder Singh vide an exchange deed. As the said land in exchange had not been given to Salwinder Singh, therefore, the complainant and his family had been cheated. The copy of the FIR No. 62 dated 11.06.2016 is attached herewith as Annexure P-1.

6. The present petition has been filed challenging the aforementioned FIR No.62 dated 11.06.2016 (Annexure P-1) and all consequential proceedings arising therefrom.

7. The learned counsel for the petitioners contends that the present FIR came to be registered after a gap of 18 years of Salwinder Singh (deceased) and others executing a General Power of Attorney in favour of

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Jagtar Singh on 17.09.1996 (Annexure P-2). Salwinder Singh passed away in 2010. During his lifetime, the transaction of 17.09.1996 and subsequent transactions thereto have never been challenged by the said Salwinder Singh or others who had executed the General Power of Attorney. Even after the death of Salwinder Singh, his son Raj Singh (complainant) got registered the instant FIR in the year 2016 i.e. 06 years after the death of Salwinder Singh. A civil suit was filed by the complainant-Raj Singh and others seeking declaration to the effect that the plaintiff and proforma respondents are the owners and in possession of the suit property with the further suit for declaration to the effect that Mutation Nos. 512 and 522 are illegal, null and void, therefore, liable to be set aside. The said civil suit came to be dismissed on 20.07.2023. She, therefore, prays that the present FIR No.62 dated 11.06.2016 (Annexure P-1) and all consequential proceedings arising therefrom are liable to be quashed.

8. The learned counsel for the State and the counsel for the complainant contend that Salwinder Singh, father of the complainant was having land in village Kakot and the petitioner No.2-Paramjit Kaur had got the land transferred in her name on the basis of an exchange deed of her land in the area of village Saini Majra, Tehsil Kharar. However, Salwinder Singh had not received any land from that exchange transaction. The FIR had been registered after an enquiry had been conducted by the ASP Chamkaur Sahib and on obtaining of a legal opinion. They, therefore, contend that the present petition is liable to be dismissed.

9. I have heard the learned counsel for the parties.



10. A perusal of the material on record would reveal that Salwinder Singh and others executed a General Power of Attorney in favour of Jagtar Singh on 17.09.1996. Based on the said General Power of Attorney, Jagtar Singh executed a Special Power of Attorney dated 01.10.1996 in favour of Rajinder Singh-petitioner No.3 and received a sum of Rs.36,750/- from him (Rajinder Singh) on 01.10.1996. Rajinder Singh-petitioner No.3 gave the land to Paramjit Kaur for a total consideration of Rs.47,250/- and accordingly, a Mutation No.512 was entered and sanctioned in favour of Paramjit Kaur-petitioner No.2. The instant FIR came to be registered on 11.06.2016 i.e. after a gap of 18 years from the date of execution of the General Power of Attorney on 17.09.1996. Interestingly, during his lifetime, Salwinder Singh did not challenge any document. He died in the year 2010. The present FIR was registered at the instance of his son Raj Singh 06 years after his death on 11.06.2016. No document has been forged or fabricated. It does not stand to reason that if Salwinder Singh was to get land in exchange in furtherance of an exchange deed, he would not have initiated legal proceedings for 14 years upto his death in 2010. The exchange deed referred to has not been brought on record which creates a doubt to its very existence.

11. The complainant-Raj Singh son of late Salwinder Singh, Jogindro wife of Bakshish Singh, Harjit Singh son of Dalip Singh and Sarup Singh son of Makhan Singh filed a suit for declaration to the effect that the plaintiff and proforma defendants are owner and in possession of the suit property with a further suit for declaration to the effect that Mutation

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Nos.512 and 522 are illegal, null and void against Paramjit Kaur wife of late Ajmer Singh, Harbans Singh, Hansa Singh both sons of Bahal Singh, Rakesh Maan son of Karam Singh Maan, Charanjit Singh son of Dalip Singh, Baj Singh son of Salwinder Singh and Dilbag Singh son of Salwinder Singh. The said civil suit came to be dismissed on 20.07.2023. The relevant extract of the judgment dated 20.07.2023 passed by the Civil Judge (Jr. Division), Rupnagar is as under:-

35. *Thus, till this stage, it is noticeable that first of all, the cause of action had accrued to Jagindro for the purpose of challenging the alleged general power of attorney dt. 17.09.1996, (in which she has been reflected as a signatory by defendant no.1) while filing written statement or at an earlier occasion but clearly, instant civil suit has been filed by plaintiff Raj Singh and it is only at a later stage that Jagindro has been impleaded as plaintiff no.2 in this case. Even after filing of written statement by defendant no. 1 in this case, no such effort has been put in by plaintiff Raj Singh or his counsel to amend the pleadings of this case and to challenge the said GPA dt. 17.09.1996 which is available on record in the form of Ex.D1. It is further relevant to mention here that said document was admittedly in possession of defendant no.1 and same has also been produced in the court on the day of examination in chief of DW1 as well as at the time of final arguments; when these documents were asked for by the court from Ld. counsel for defendant no.1. Even, the copy of the said GPA was appended with the written statement by defendant no.1 at the time of filing his reply in this case.*

36. *Not only this, but in fact, said Jagtar Singh has not been impleaded as a party in this case by plaintiff, whereas, he was*



the prime person who was to be impleaded in this case as a necessary party because the alleged first GPA Ex.D1 was executed between said Jagtar Singh, Salvinder Singh, Jagiro, Mohindro, Jagindro and Gurmez Kaur. It is further relevant to mention here that as per SPA Ex.D2 which has been executed by Jagtar Singh in favour of Rajinder Singh, the Rajinder Singh had purchased ownership rights of the suit property from Jagtar Singh on 01.10.1996, whereas, the mutation no. 512 Ex.P2 has been entered and sanctioned in the revenue record on 29.06.1998, meaning thereby, the said mutation was entered and sanctioned on the basis of said SPA Ex.D2, which has also not been challenged by plaintiff in this case. To give explanation in this context, ld. Counsel for plaintiff had stated during the course of arguments that since, there was no reference of any kind of exchange and also of these documents in the mutation Ex.P2 and Ex.P3 on record, therefore, it was not required for them to challenge these documents, which as per them had never been in existence. However, this court is not satisfied with the explanation so given by ld. Counsel for the plaintiff in this regard because even if we peruse documents Ex.P2 and Ex.P3 on record i.e. the mutation entries no. 512 and 522 then, it can be seen that there is a clear reference of alleged exchange/agreement executed between the parties. Even otherwise, if those entries are ignored, then also, the written statement filed by defendant no.1 was very much clear in these terms and after filing of the written statement, the plaintiff had every opportunity to challenge these documents on record, but he has not done so. At the cost of repetition, it is hereby mentioned that one of the legal heir of Gopal, namely, Jagindro is still alive and she is now plaintiff no.2 in the present case, but still, the said GPA dt. 17.09.1996 has not been challenged by plaintiff Raj Singh and Jogindro herself, for the



reasons best known to them. Accordingly, if the main document, which is the very basis for the controversy between the parties has not been challenged on record, how the simplicitor suit for challenging the mutation entries is maintainable, is unexplained on record.

37. It is further noticeable that Rajinder Singh, in whose favor Jagtar Singh had executed SPA dt. 01.10.1996 has also not been impleaded as a party in this case, whereas, said Rajinder Singh has stepped into witness box as DW3 so as to prove the said SPA dt. 01.10.1996 on record. By way of his examination before the court, he has stated that he further sold the suit property to defendant no. 1 for sale consideration and during his cross examination, it has appeared on record that defendant no.1 Paramjit Kaur is his sister. Therefore, may be, the averments of the plaintiff with regard to the fact that there is mutual connivance of the defendants is correct but then, since, requisite reliefs have not been claimed by the plaintiff from this court, therefore, this aspect of the matter cannot be further commented upon.

38. It is further noticeable that by way of examination of DW8 i.e. Gurmeet Singh Patwari Halqa, Vill. Kakot, the defendants have been able to reflect on record that from Paramjeet Kaur, the suit property under reference had traveled to Harbans Singh and Hansa Singh and document Ex.D8/D further clarifies that an entry with regard to exchange of the land has been incorporated in the said document while there are remarks incorporated in column no. 13 of the said document reflecting therein that the said transfer had been made on the basis of an agreement dt. 29.07.1998 and clearly, the said document has also not been challenged by plaintiff in the instant civil suit. Thereafter, the suit property still did not remain within the hands of Harbans Singh and Hansa Singh



and infact, they had appointed DW9 Tarsem Singh as their power of attorney which is Ex.DW9/B on record and clearly, this document has also not been challenged by plaintiff by way of instant civil suit. Defendant no. 4 Rakesh Maan has stepped into witness box in this case as DW6 and vide his affidavit Ex.DW6/A he has reiterated the contents of his written statement that he is a bonafide purchaser for the sale consideration and sale deed dt. 12.10.1998 Ex.D6/A has been validly executed in his favour by said above mentioned Tarsem Singh being GPA of Harbans Singh and Hansa Singh. Ex.D6/C i.e. original jamabandi on record reveals that mutation no. 525 has been entered in the jamabandi reflecting that Harbans Singh and Hansa Singh both sons of Bahal Singh had executed sale deed in favour of defendant no. 4 Rakesh Maan qua their 147/2342 share in khasra numbers reflected in sale deed Ex.D6/A. Clearly, said Harbans Singh and Hansa Singh are having more share in the said joint khasra numbers and thus, in any case, the sale deed executed in favour of defendant no. 4 by Harbans Singh and Hansa Singh through Tarsem Singh is a legal and genuine document. Defendant no. 4 has also examined DW7 Harinder Singh Numberdaar in support of his contentions, who is none other than but a witness to the said sale deed under reference. Though, this witness has stated in his cross examination that he had not seen Harbans Singh and Hansa Singh signing the power of attorney in favor of Tarsem Singh but so far as bargain between Tarsem Singh and defendant no. 4 is concerned, the depositions of this witness are cogent on record and nothing contradictory to his stand has appear.

39. To conclude the discussion, it is necessary to observe here that Jagtar Singh was prime witness as well as necessary party of instant litigation but he has neither been joined as a



party in this case by the plaintiff nor he has been examined as a witness in this case. It is also noticeable that said Jagtar Singh is relevant so far as general power of attorney dt. 17.09.1996 as well as special power of attorney dt. 01.10.1996 Ex.D1 and Ex.D2 respectively are concerned and also, since, said Jagtar Singh s/o Kapoor Singh of Vill. Kalian Sakotra is also a witness to a document Ex.DW9/B i.e. alleged power of attorney executed by Harbans Singh and Hansa Singh in favor of Tarsem Singh, therefore, he was also a material witness to be examined in this regard.

40. *Further, since, the plaintiffs have not challenged all the requisite documents, as already mentioned above, therefore, suit of plaintiffs is not maintainable.*

41. *Also, it is held that the plaintiff was not having any cause of action to file instant civil suit against defendants because it was firstly for Jogindro to come forward and challenge the alleged GPA dated 17.09.1996 Ex.D1.*

Issues No.1 & 2:

1.Whether the plaintiff is entitled for the relief of declaration, as prayed for? OPP

2.Whether the plaintiff is entitled for the relief of permanent injunction, as prayed for? OPP

42. *As findings of issue No.3 are not in favour of plaintiff, thus, he is also not held entitled for relief of declaration and permanent injunction and therefore, findings of issues No.1 & 2 are also against the plaintiff and in favour of defendants.*

Issue No.4 & 6:

4.Whether the plaintiffs have no locus standi and cause of action to file the present suit? OPD

6.Whether suit of plaintiff is time barred? OPD

43. *Since issue No.3 is decided against the plaintiffs, as such, findings of issues under reference also goes against the*



plaintiffs and in favour of defendants.

Issues No.5, 6, 8 & 9:

5. Whether the plaintiff has not come to the Court with clean hands and concealed true and material facts? OPD

6. Whether the suit is bad for mis-joinder and non-joinder of necessary parties? OPD

8. Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD

9. Whether the suit has not been properly valued for the purpose of Court fees and jurisdiction? OPD

44. Onus to prove these issues was upon the defendants, however, defendants have not led any evidence to prove these issues and even, they did not press the same during the course of arguments. Accordingly, Issues No.5, 6, 8 & 9 are decided against the defendants being 'not pressed'.

RELIEF:

45. In view of findings on above issues, suit filed by plaintiff fails and is, hereby, dismissed with no order as to costs. Decree sheet be prepared accordingly. File be consigned to Record Room, Rupnagar after due compliance.

12. The upshot of the aforementioned discussion is that Salwinder Singh and others executed a General Power of Attorney on 17.09.1996 with respect to the land owned by them on the basis of which multiple other documents were executed and ultimately, the land came to vest in petitioner No.2-Paramjit Kaur on 28.07.1998. Salwinder Singh in his lifetime did not challenge the General Power of Attorney (Annexure P-2) executed by him and others or the Special Power of Attorney executed by Jagtar Singh. The civil suit preferred by Raj Singh-complainant and others already stands dismissed. On the death of Salwinder Singh, his son-Raj Singh got

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registered the instant FIR No.62 dated 11.06.1996 (Annexure P-1). The exchange deed purportedly executed between Salwinder Singh and petitioner No.2-Paramjit Kaur has not seen the light of the day. The instant FIR has been registered after a gap of 16 years. Thus, the continuation of the proceedings emanating out of the FIR are nothing but an abuse of the process of the Court. Therefore, FIR No.62 dated 11.06.2016 under Sections 465, 466, 467, 468 and 120-B IPC registered at Police Station Sadar, Rupnagar, Punjab (Annexure P-1) and all consequential proceedings arising therefrom stand quashed qua the petitioners only.

13. Pending miscellaneous applications, if any, also stands disposed of.

September 09, 2025
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No