



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No.2413 of 2024 (O&M)

Reserved on : 25.04.2025

Pronounced on: 07.07.2025

Talwinder Singh

....Appellant

V/s

Amanpreet Kaur @ Rajdeep Kaur and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by: Mr. Pankaj Maini, Advocate, for the appellant.

VIKRAM AGGARWAL, J.

This is defendant's appeal against the judgment and decree dated 01.08.2024 passed by the Court of Addl. District Judge, Ferozepur, dismissing the appeal filed against the judgment and decree dated 19.11.2022 passed by the Court of Additional Civil Judge (Sr. Divn.), Ferozepur, vide which the suit for declaration filed by the plaintiffs was decreed and sale deed executed by defendant No.1 in favour of defendants No.3 and 4, and defendants No.5 and 6 and consequent mutations were set aside.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. The dispute is with regard to the estate of one Jagroop Singh, who was the owner in possession of land measuring 59 kanals 12 marlas situated in Village Patli, Tehsil and District Ferozepur. Jagroop Singh expired on 19.04.1999. On the basis of a Will dated 15.03.1999 alleged to have been executed by Jagroop Singh in favour of defendant No.1 (Talwinder Singh, son of Jagroop Singh), Mutation No.696 dated 18.05.2005 was sanctioned in favour of defendant No.1 (Talwinder Singh).



The plaintiffs Amanpreet Kaur @ Rajdeep Kaur and Haven Preet Kaur, both are daughters of Jagroop Singh and sisters of defendant No.1 (Talwinder Singh) instituted a suit for declaration that they were owners to the extent of 1/4th share each in respect of the estate of Jagroop Singh and that the mutation sanctioned on the basis of the Will was illegal and void since no such Will had been executed by Jagroop Singh. The sale deed executed by defendant No.1 in favour of defendants No.3 and 4 and defendants No.5 and 6 and consequent mutations were also challenged. (Defendant No.1 had alienated 11 marlas of land in favour of defendants No.3 and 4 and 8 kanals of land in favour of defendants No.5 and 6). The plaintiffs impleaded their mother as defendant No.2 and subsequent purchasers as defendants No.3 to 6.

3.2 The case set up by them was that Jagroop Singh has died intestate and, therefore, his estate was to devolve by way of succession.

3.3 Defendants No.1 and 2 opposed the suit. In the written statement, apart from the preliminary objections, the suit was opposed on merits and it was averred that Will dated 15.03.1999 had duly been registered in favour of defendant No.1 by Jagroop Singh as a result of which the mutation was rightly sanctioned. It was averred that the plaintiffs had instituted the suit on account of greed. The alienation of land to defendants No.3, 4, 5 and 6 was supported saying that the same had legally been alienated since defendant No.1 had become owner of the suit property.

3.4 Defendants No.3, 4, 5 and 6 had also filed their separate written statements raising the plea of being bona fide purchasers of the land for consideration.

4. In the replication submitted to the written statements, the averments made in the said written statements were denied and those made



in the plaint were reiterated.

5. From the pleadings of the parties, following issues were framed by the trial Court:-

- “1. Whether plaintiffs are owner to the extent of 1/4th share in suit property?OPP***
- 2. Whether sale deed dated 16.04.2014 vide wasika No.55 executed by defendant No.1 in favour of defendants No.3 and 4 and consequent mutation No.2872 on the basis of above sale deed are liable to be set aside?OPP***
- 3. Whether sale deed dated 08.02.2016 vide wasika No.989 executed by defendant No.1 in favour of defendant No.5 and 6 and consequent mutation No.2895 on the basis of above sale deed are liable to be set aside?OPP***
- 4. Whether plaintiffs are entitled to declaration as prayed for?OPP***
- 5. Whether plaintiffs are entitled to joint possession, as prayed for?OPP***
- 6. Whether the plaintiffs are entitled to permanent injunction, as prayed for?OPP***
- 7. Whether Jagroop Singh executed Will dated 15.03.1999 in favour of defendant No.1?OPD***
- 8. Whether present suit is not maintainable?OPD***
- 9. Whether plaintiffs have concealed material facts from this Court?OPD***
- 10. Whether present suit is within limitation? OPD***
- 11. Whether defendant No.3 and 4 are bona fide purchaser vide sale deed dated 16.04.2014 vide wasika No.55 executed by defendant No.1 in their favour and if yes, to what affect?OPD 3 and 4.***
- 12. Whether defendant No.5 and 6 are bona fide purchaser vide sale deed dated 08.02.2016 vide wasika No.989 executed by defendant No.1 in their favour and if yes, to what affect?OPD 5 and 6.***
- 13. Whether plaintiffs have got no locus standi to file present suit?OPD***
- 14. Relief.”***

6. Parties led their respective evidence. The trial Court decreed the suit in favour of the plaintiffs. The appeal preferred by defendant No.1 against the said judgment and decree was also dismissed by the Court of Addl. District Judge, Ferozepur, leading to filing of the present regular



second appeal.

6.1 It would be relevant to notice here that only defendant No.1 (Talwinder Singh) had preferred the first appeal as also the present regular second appeal and defendants No.3 and 4 and defendants No.5 and 6 did not prefer any appeal. It would also be relevant to notice here that though defendant No.2 (Mandeep Kaur) widow of Jagroop Singh and mother of defendant No.1 (Talwinder Singh) had initially filed a joint written statement with defendant No.1 opposing the claim of the plaintiffs, she subsequently appeared as a witness of the plaintiffs and supported their claim.

7. Learned counsel for the appellant was heard.

8. Mr. Pankaj Maini, learned counsel representing the appellant strenuously urged that the judgments and decrees under challenge are not sustainable. He referred to the said judgments and decrees as also the oral and documentary evidence led on the record of the case.

8.1 It was submitted that cogent evidence was led to prove that the mutation in favour of defendant No.1 had legally been sanctioned and that under the circumstances, there was no occasion for the Courts to decree the suit filed by the plaintiffs.

9. I have considered the submissions made by learned counsel for the appellant.

9.1 Jagroop Singh is stated to have expired on 19.04.1999. Mutation No.696 dated 18.05.2005 as regards the suit property was sanctioned in favour of defendant No.1 (Talwinder Singh) on the basis of an unregistered Will dated 15.03.1999. Notably, the said Will has not seen the light of the day even till today. There was a specific issue framed as regards the execution of the said Will i.e. Issue No.7, whether Jagroop Singh executed the Will dated 15.03.1999 in favour of defendant No.1. The onus



to prove this issue was on the defendant. However, defendant No.1 miserably failed to prove that any such Will had been executed by Jagroop Singh in his favour. Efforts were made and many witnesses were examined to prove the Will and mutation executed in favour of defendant No.1 (Talwinder Singh). However, the witnesses faltered in the evidence. Most of the witnesses proved the mutation. DW-1 (Ram Singh), DW4 (Rajnish Kumar) and DW6 (Madan Mohan), all deposed about the mutation sanctioned in favour of defendant No.1. DW7 (Sharanjit Singh) had stated that he had scribed the Will dated 15.03.1999. However, DW1 (Ram Singh) deposed that he had no personal knowledge about Mutation No.696 sanctioned on 18.05.2005. DW4 (Rajnish Kumar) also deposed about mutation dated 18.05.2005 but in his cross-examination admitted that the said mutation had not been passed in his presence and that he had not seen the Will in question. DW6 (Madan Mohan), who was a retired Naib Tehsildar, also deposed about the mutation. He also stated that Mandeep Kaur widow of Jagroop Singh had produced the Will dated 15.03.1999 executed by her husband in favour of defendant No.1 and that Amanpreet Kaur and Haven Preet Kaur had also appeared before him and suffered a statement that they had no objection if the mutation was sanctioned on the basis of the Will. However, during cross-examination, he stated that neither the *Parat Patwar* nor *Parat Sarkar* of the mutation had been produced in the Court. When he was confronted with the judicial file, he admitted that neither the original nor photocopy of the Will was appended with the said file. He admitted that he had not written in the order that Will had been kept in the official record. He admitted that if the Will was unregistered, the same was to be sent to the office of the SDM-cum-Assistant Collector, 1st Grade for enquiry and decision. He stated that the Will was unregistered but no



such process was carried out. He also admitted that when Amanpreet Kaur and Haven Preet Kaur appeared before him, he did not verify their age. He also admitted that the order on mutation (Ex.DW4/A) did not contain the signatures of the plaintiffs (Amanpreet Kaur and Haven Preet Kaur). The alleged scribe of the Will DW7 (Sharanjit Singh) also faltered in the cross-examination. He also admitted that the Will scribed by him was not available on the file. He stated that he had scribed only one Will in his life which was the Will of Jagroop Singh.

10. Both Courts, therefore, rightly held that once the execution of the Will itself did not stand proved, the mutation in favour of defendant No.1 had erroneously and illegally been sanctioned. Defendant No.1, while deposing as DW5, also admitted in his cross-examination that he had not seen the original or photocopy of the Will executed by his father in his favour. Once the Will was not proved, the mutation on the basis of the said Will could not have been sanctioned and the suit property would have to devolve in terms of the law of succession.

11. Both Courts, therefore, rightly decreed the suit filed by the plaintiffs. I do not find any reason to disturb the concurrent findings recorded by both the Courts in view of the discussion in the preceding paragraphs.

12. That being so, the instant appeal is found to be devoid of merit and is accordingly dismissed.

Pending application(s), if any, shall also stand disposed of.

(VIKRAM AGGARWAL)
JUDGE

Pronounced on: 07.07.2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No