

2026:PHHC:052651



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

RSA-6394-2018 (O&M)
Date of Decision: 07.04.2026

GURVINDER KAUR

....Appellant

Versus

SURINDER PAWAR AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Parminder Singh, Advocate
for the appellant.

PARMOD GOYAL, J. (ORAL)

Present regular second appeal has been preferred by appellant/defendant No.5 being aggrieved by impugned judgment and decree dated 26.04.2016, passed by learned Civil Judge, Junior Division, Karnal whereby suit preferred by respondents/plaintiffs for declaration to the effect that they are owners of 2445/4080 share out of total land measuring 204 kanal 4 marlas as detailed in plaint and mutation entries bearing Nos.990 and 991 are illegal, void and not binding upon the rights of plaintiffs in view of provisions of Section 15(1) and Section 8 of Hindu Succession Act, 1956 and sale deed executed by appellant/defendant No.5 in favour of respondents/defendants No.1 to 4 with respect to entire land is nullity qua the share of respondents/plaintiffs, was decreed. The judgment and decree dated 26.04.2016, was duly challenged in appeal by defendants No.1 to 4, wherein appellant/defendant No.5 had filed cross-objections which were also

dismissed vide impugned judgment and decree dated 16.05.2018 passed by learned Additional District Judge, Karnal. Appellant/defendant No.5 is aggrieved by the above said impugned judgments and decrees and has claimed the suit property.

2. It was the case of respondents/plaintiffs that Bakha Singh and his first wife i.e. Jasbir Kaur were recorded owners of land to the extent of one half share each as mentioned in para No.4 of the plaint. After death of Jasbir Kaur, Bakha Singh performed second marriage with respondent/plaintiff No.1 and out of the said wedlock respondents/plaintiffs No.2 to 4 were born. Bakha Singh had died on 17.03.2001 and as per law, respondents/plaintiffs No.1 to 4 became owners of 2445/4080 share in the land measuring 204 kanals 0 marla. It was averred that appellant/defendant No.5 had sold the entire land in favour of respondents/defendants No.1 to 4 vide sale deed dated 07.12.2007 for a fictitious consideration of Rs.1,02,00,000/-. It was claimed that the said sale deed is a void document and respondents/plaintiffs continued to be the owners of suit land. It was asserted that mutation of land was wrongly entered in favour of appellant/defendant No.5, instead of respondents/plaintiffs who are legal heirs of deceased Bakha Singh.

3. Defendants No.1 to 4 took preliminary objection with regard to maintainability of the suit and claimed themselves to be *bona fide* purchasers for consideration as they had duly inquired about the right, title or interest of appellant/defendant No.5 in the suit land. It was asserted that after the death of Jasbir Kaur Mutation No.990 was rightly sanctioned in favour of appellant/defendant No.5 as per Hindu Succession Act, 1956. On inquiry from appellant/defendant No.5 regarding the second marriage of

Bakha Singh, she had informed that no such marriage has ever been performed by him and no issue was born out of the said marriage, thereafter, upon death of Bakha Singh on 17.03.2001, mutation regarding his estate was duly sanctioned in favour of appellant/defendant No.5. It was averred that defendants No.1 to 4 had purchased the suit land vide sale deed dated 07.12.2007 for a valuable consideration of Rs.1,02,00,000/-. Accordingly, dismissal of suit was prayed for.

4. Appellant/defendant No.5 also took similar preliminary objection regarding maintainability of suit. It was asserted that objections under Section 47 read with Order XXI Rule 97 to 101 read with Section 151 CPC, 1908 on similar grounds are pending adjudication in the Court of M.S. Rajni Kaushal, learned Civil Judge (Junior Division) Karnal. Respondents/defendants No.1 to 4 claimed that after death of Jasbir Kaur, her estate was mutated in favour of appellant/defendant No.5 and she had accordingly sold the same vide registered sale deed dated 07.12.2007.

5. From the pleadings of parties following issues were framed :-

1. Whether plaintiffs are entitled to a decree for declaration, as prayed for ? OPP
2. Whether suit is not maintainable in the present form ? OPD
3. Whether plaintiffs have no locus standi or cause of action to file and maintain the present suit? OPD
4. Whether plaintiffs are estopped from filing the present suit by their own act and conduct ? OPD
- 4A Whether the defendants No.1 to 4 are the bonafide purchasers for valuable consideration of the land in question vide sale deed No.1181 dated 07.12.2007 ? OPD

5. Relief.

6. Issue No.1 was decided in favour of respondents No.5 to 8/plaintiffs, issue No.4A was decided in favour of respondents/defendants No.1 to 4, whereas issues No.2 to 4 were decided in favour of respondents No.5 to 8/plaintiffs and against respondents/defendants No.1 to 4 and the suit was decreed with cost. It was held that mutation No.990 and 991 have been based upon patent error regarding share of Gurbinder Kaur in the property of Bakha Singh. Respondents No.5 to 8/plaintiffs were held entitled to 2445/4080 share in the property. Sale deed was held valid to the extent of 1635/4080 share of appellant/defendant No.5 qua the suit property. Respondents/defendants No.1 to 4 were given liberty to get the sale deed corrected to the extent of share of appellant/defendant No.5. Appeal preferred by respondents/defendants No.1 to 4 and cross-objections by appellant/defendant No.5 were also dismissed.

7. Facts in the present case are not in dispute. Admittedly, Gurbachan Kaur was the original owner of suit property. She had transferred the same to the extent of her 50% share in favour of Jasbir Kaur and Bakha Singh i.e. biological mother and father of appellant/defendant No.5. It is also an admitted fact that Gurbachan Kaur and Jasbir Kaur were real sisters. It is the own case of appellant/defendant No.5 that after death of her biological mother Jasbir Kaur, she was looked after and adopted by Gurbachan Kaur and accordingly, Gurbachan Kaur had suffered a transfer deed qua land owned by her in favour of defendant No.5. She further claimed that after death of Jasbir Kaur and Bakha Singh she had rightly inherited land vested in them. On the other hand, on the basis of above facts, it is asserted by respondents No.5 to 8/plaintiffs that subsequent to death of Jasbir Kaur, her

estate was inherited by appellant/defendant No.5 and Bakha Singh and estate of Bakha Singh was succeeded by respondents No.5 to 8/plaintiffs being wife and children of Bakha Singh out of second marriage and since appellant/defendant No.5 had already been adopted by Gurbachan Kaur, therefore, being legal heirs of Bakha Singh, only respondents No.5 to 8/plaintiffs being wife and children were entitled to inherit his share, however, by wrong mutation bearing No.990 and 991 the land which was owned by Bakha Singh was wrongly mutated in favour of appellant/defendant No.5.

8. Perusal of pleadings and evidence further goes to show that Jasbir Kaur had died on 26.04.1987 when appellant/defendant No.5 was only 9 months old, thereafter, she was looked after and adopted by Gurbachan Kaur as per the own case of appellant/defendant No.5. Therefore, as on date when succession of Jasbir Kaur had open, the estate of Jasbir Kaur would have been inherited by Bakha Singh as well as appellant/defendant No.5 in equal share. This fact has duly been accepted by both the Courts below.

9. The real dispute is regarding estate of Bakha Singh, which he has inherited from Jasbir Kaur and remaining half share which he got from Gurbachan Kaur. In the present case, it is the case of respondents No.5 to 8/plaintiffs that being wife and children of Bakha Singh they alone were entitled to inherit the estate of Bakha Singh who had died in 2001. However, instead of entering mutation in favour of respondents No.5 to 8/plaintiffs, the revenue authorities wrongly entered the same in favour of appellant/defendant No.5 who had no concern with the estate of Bakha Singh.

10. The above conclusion drawn by learned Courts below is totally based upon correct appreciation of evidence and correct application of

Hindu Succession Act, 1956. The Courts below have rightly held that when Jasbir Kaur had died on 26.04.1987, her share would have fallen to her daughter i.e. appellant/defendant No.5 and her husband i.e. Bakha Singh in equal proportion. It is also an admitted fact that Gurbachan Kaur-sister of Jasbir Kaur had taken care and adopted appellant/defendant No.5 after death of her mother on 26.04.1987. After the adoption of appellant/defendant No.5 by Gurbachan Kaur, she is left with no right in her biological family. After adoption, if her biological father Bakha Singh had died in the year 2001 then the estate of Bakha Singh would go to his class one heirs which respondents No.5 to 8/plaintiffs have succeeded in proving to be wife and children of Bakha Singh. As marriage of respondent/plaintiff No.1 was performed after death of Jasbir Kaur on 26.04.1987, there is no evidence available on record to discard the claim of respondent/plaintiff No.1 regarding her marriage with Bakha Singh and the fact that respondents/plaintiffs No.2 to 4 were born out of said wedlock of respondent/plaintiff No.1 and Bakha Singh and, therefore, on the date when succession of Bakha Singh had opened upon his death in 2001, appellant/defendant No.5 had no right over the property owned by Bakha Singh and, therefore, learned trial Court has rightly held mutations entered in the name of appellant/defendant No.5 bearing No.990 and 991 to be illegal as they have not been correctly entered by revenue authorities as per Hindu Succession Act, 1956.

11. In view of above discussion, I do not find any error in the judgment and decree dated 26.04.2016 passed by the Court of first instance and same are upheld. Present appeal is without any merit, hence is dismissed.

12. Pending application(s), if any, is/are disposed of accordingly.

07.04.2026
chiranjeev

(PARMOD GOYAL)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No