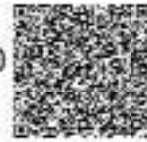


2026:PHHC:058170



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

**CWP-27887-2025 (O&M)
Date of Decision: 12.03.2026**

Amarjit Kaur Through Power of Attorney Avtar Singh

..... Petitioner

Versus

Financial Commissioner (Appeals), Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Shamsheer Singh Gill, Advocate
for the petitioner,

Mr. Nirmaljit Singh Diwana, Senior DAG, Punjab.

HARSH BUNGER J. (ORAL)

CM-3810-CWP-2026:

Prayer in the present application is for placing on record the judgment and decree dated 15.09.2022 (Annexure P-12) passed in Civil Suit No.CS/188/2015 titled as 'Amarjit Kaur Versus Sukhjit Kaur'.

For the reasons mentioned in the application, the judgment and decree dated 15.09.2022 (Annexure P-12) passed in Civil Suit No.CS/188/2015 titled as 'Amarjit Kaur Versus Sukhjit Kaur', is taken on record, subject to all just exceptions.

Application is accordingly disposed of.

CWP-27887-2025:

Petition herein is, *inter alia*, seeking a writ in the nature of Certiorari for setting aside the order dated 17.06.2015 (Annexure P-3) passed by the learned Assistant Collector, Ist Grade, Payal; order dated 18.03.2016/22.03.2016 (Annexure P-5) passed by the learned Collector, Khanna, District Ludhiana; order dated 27.11.2018 (Annexure P-7) passed by the learned Divisional Commissioner, Patiala; and order dated 10.09.2024 (Annexure P-9) passed by the learned Financial Commissioner (Appeals), Punjab.

1.1 A further prayer has been made for issuance of appropriate directions to the revenue authorities to sanction the mutation of the estate of late Sh. Amritpal Singh in favour of the petitioner – Amarjit Kaur, being his natural mother.

2. The present writ petition arises out of the proceedings pertaining to Mutation No.5836 of Village Jargari, Tehsil Payal, District Ludhiana, concerning succession to the estate of late Sh. Amritpal Singh (the deceased son of the petitioner).

3. Briefly, Sh. Amritpal Singh (the deceased son of the petitioner), expired on 21.08.2013. Upon his demise, Mutation No.5836 was entered; however, the entry made in favour of respondent No.5 – Sukhjit Kaur (widow of the deceased Amritpal Singh) was objected to by the petitioner, whereupon the mutation was declared as contested and referred for adjudication to the learned Assistant Collector, Ist Grade, Payal.

3.1 Before the learned Assistant Collector, Ist Grade, Payal, the petitioner specifically pleaded that the marriage between her deceased son, namely Amritpal Singh, and respondent No.5 – Sukhjit Kaur, had already

been dissolved by way of an oral divorce in accordance with the custom prevalent in their community. However, the said plea did not find favour with the learned Assistant Collector, Ist Grade, Payal, who, vide order dated 17.06.2015 (Annexure P-3), directed that the mutation be sanctioned in favour of both the petitioner and respondent No.5 on the basis of natural succession. Relevant extract of the said order dated 17.06.2015 (Annexure P-3) reads as under:-

“ *Arguments of learned counsels of both the parties heard and the facts came on the file were observed, according to which after the death of Amritpal Singh mutation regarding his estate had sanctioned in the name of his mother Amarjit Kaur and widow Sukhjit Kaur. As per record of court file, Amarjit Kaur stated that the marriage of Sukhjit Kaur and Amritpal Singh has been dissolved in 2010 but no document has been produced by her regarding dissolution of marriage or divorce. The complaint moved by Amarjit Kaur which is with the court file, according to which this Power of Attorney is attested in Canada. The authentication can be taken from them regarding its correct or wrong. From the documents produced by Sukhjit Kaur, anand karaj certificate, marriage certificate, voter card, ration, it is proved that the marriage of Sukhjit Kaur was performed with Amritpal Singh according to Sikh rites but no document has been produced in the court regarding dissolution of their marriage or divorce. So the objection of Amarjit Kaur is not correct which is ordered to be rejected and mutation regarding the estate of Amritpal Singh is being accepted to be sanctioned in the name of Amarjit Kaur mother of Amritpal Singh son of Jagtar Singh and Sukhjit Kaur widow of Amritpal Singh son of Jagtar Singh in equal shares on the basis of natural succession.*”

3.2 Feeling aggrieved against the aforesaid order dated 17.06.2015 (Annexure P-3), the petitioner preferred an appeal before the learned

Collector, Khanna, which came to be dismissed vide order dated 18.03.2016 (Annexure P-5). Relevant extract thereof reads as thus:-

“ Arguments of counsels of both the parties heard and record came on the file has been seen. Amritpal Singh son of Jagtar Singh has been expired on 21.8.2013 and this mutation has been accepted by the lower court in the name of natural heirs appellant and respondent of late Amritpal Singh. Both the parties are accepting that marriage of Sukhjot Kaur was performed with the son of appellant Amritpal Singh but no child was born to them. Amarjit Kaur appellant states that the marriage was dissolved but no document was produced regarding dissolution of marriage. Power of Attorney has been given by the respondent Sukhjot Kaur to her father Jasvir Singh, which is attested from Canada. From the documents anand karaj certificate, marriage certificate, voter card and ration card produced by the father of Sukhjot Kaur, it is clear that the marriage of Sukhjot Kaur was performed with Amritpal Singh but no document was produced regarding dissolution or breaking of marriage. Apart from this Amarjit Kaur appellant has filed a suit for declaration in the Civil Court but there is no stay order. Proceedings of mutation are summary in nature and for the fulfillment of revenue record. So by getting agreed with the order of lower court this appeal is being dismissed and it is instructed that entry be made in the revenue record with red ink regarding pendency of case between the parties in civil court.”

3.3 Still dissatisfied, the petitioner preferred a revision petition before the learned Divisional Commissioner, Patiala, which also came to be dismissed vide order dated 27.11.2018 (Annexure P-7). Even the further second revision (ROR No.394 of 2019) filed by the petitioner before the learned Financial Commissioner (Appeals), Punjab, was dismissed vide order dated 10.09.2024 (Annexure P-9).

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

5. Before this Court, the solitary contention raised on behalf of the petitioner is that respondent No.5 – Sukhjit Kaur is not entitled to succeed to the estate of the deceased Amritpal Singh, as their marriage had allegedly been dissolved in the year 2010.

6. I have considered the aforesaid submission made by learned counsel for the petitioner and perused the paper book with his able assistance.

7. Apparently, the plea raised before this Court was also raised by the petitioner in a civil suit; however, the same was dismissed by the Civil Court by recording a categorical finding that the marriage between the deceased Amritpal Singh and respondent No.5 – Sukhjit Kaur had not been proved to have been dissolved by a decree of divorce in the year 2010 or at any time during the lifetime of the deceased Amritpal Singh. The Civil Court further held that respondent No.5 – Sukhjit Kaur continued to be the legally wedded wife of the deceased Amritpal Singh in the year 2013 and, consequently, upon his demise, respondent No.5 – Sukhjit Kaur is entitled to inherit his estate in accordance with law along with the present petitioner – Amarjit Kaur.

7.1 The relevant finding recorded in the judgment and decree dated 15.09.2022 (Annexure P-12) passed by the learned Additional Civil Judge (Senior Division), Payal, is as under:-

“ 1. *Whether the plaintiff is entitled to suit for declaration as prayed for? OPP*

10. *The onus to prove this issue was upon the plaintiff. Plaintiff*

has contended that she is owner in possession of the estate of her deceased son Amritpal Singh to the exclusion of defendant Sukhjit Kaur. As per the plaintiff in the year 2011, Sukhjit Kaur got prepared her passport by showing that her marriage with Amritpal Singh has been dissolved and she has given the address of her parental home in her passport. As per the plaintiff, her son Amritpal Singh has died in August 2013 in road accident. As per the plaintiff, Sukhjit Kaur before the inquiry officer in connection with the inquiry regarding the passport has stated that her marriage has been dissolved in February 2010. Plaintiff led the voluminous evidence on record consisting of six witnesses. Plaintiff Amarjit Kaur herself appeared as PW-1 and tendered her affidavit and she has not appeared for cross examination subsequently she has got examined Avtar Singh her attorney as PW-4. The plaintiff during the evidence has adduced on record document Ex.P1/A which is the certificate of divorce given by the court of Queens Bench of Alberta, Edmonton. In the array of parties the names are mentioned "Kaur, Sukhjit and Gill, Jagdeep". As per this document, the marriage solemnized on second day of April 2014 was dissolved by a judgment that became effective on 22nd day of November 2016. As per the plaintiff, his son has died in road accident in August 2013. As per document Ex.P1/A the marriage of defendant with Jagdeep Gill is shown to have been solemnized on April 2014. By that time the marriage of defendant with Amritpal Singh stood dissolved by death. The marriage between the parties is dissolved either through decree of divorce or through death. In the present case, the marriage stood dissolved in the year August 2013 due to the death of Amritpal Singh. The plaintiff has also placed on record the inquiry report dated 14.07.2012 of P.S. Mullapur is Ex.PW2/B on the application given by Avtar Singh against Sukhjit Kaur defendant. As per this document, the passport of Sukhjit Kaur was found to have been made correctly. Ex.PW2/C is the copy of report dated 15.07.2016 same is also

on the same facts. Ex.PW2/D is the copy of statement of Sukhjit Kaur given to the police during the inquiry. The plaintiff is relying heavily on this document as well as statement Ex.PW2/E of Jasvir Singh father of defendant. The plaintiff has highlighted the fact in the statement of Sukhjit Kaur Ex.PW2/E recorded before the police in which it is mentioned that her marriage had been broken in the February 2010 on the similar line as per the statement of Jasvir Singh Ex.PW2/E who has also stated before the police that when Sukhjit Kaur applied for the passport at that time her marriage had broken and she was residing permanently with her parents at her parental home. In my view, these documents are not sufficient to give the finding that marriage between deceased Amritpal Singh and defendant Sukhjit Kaur were dissolved in February 2010. As per the law, the marriage between the parties can be dissolved through the decree of divorce or by the death. Plaintiff has not placed on record any court order or decree passed by the competent court of jurisdiction that in the year 2010 the marriage between Amritpal Singh and Sukhjeet Kaur was dissolved by decree of divorce. Mere assertion on the part of the plaintiff by placing reliance upon the statement of defendant and her father before the police which has been referred above is not sufficient to arrive at a conclusion that the marriage between Amritpal Singh and Sukhjit Kaur was dissolved in the year 2010. Merely this fact, that defendant was living separate from her husband does not constitute the dissolution of the marriage and merely by saying by the defendant to the police that her marriage has been broken, it cannot be said that their marriage has been dissolved legally.

11. Plaintiff has also forcefully contended that in her passport she has shown her status as single. This court is not the appropriate forum to decide this fact moreover as per the documents on record, the matter was also looked into by the police P.S. Mulepur and it was found as per the copy of report Ex.PW2/C dated 15.07.2012, no offence was committed by

making the passport while living in her parental home. Even, PW-1 Narinder Singh has deposed that it is correct that Sukhjit Kaur was legally wedded wife of Amritpal Singh. He further deposed that it is correct that mutation regarding the estate of Amritpal Singh has been sanctioned in the name of Amarjeet Kaur and Sukhjit Kaur in equal shares. He further said that in his presence Sukhjit Kaur has not talked with any one for selling the land. PW-4 Avtar Singh has deposed in his cross examination that he has brought the original marriage certificate of Sukhjit Kaur with Amritpal Singh, copy of which is Ex.DX. He further said that he does not know whether any case was pending against Jasjit Singh in Canada.

12. Plaintiff has contended that passport of the defendant was impounded. Again, this is not the matter of dispute before the Court as it is the prerogative of the passport authority. So, it has not been proved on record that marriage of the Amritpal Singh and Sukhjit Kaur was dissolved by the decree of divorce in the year 2010 or during the life time of Amritpal Singh. Accordingly, the defendant was legally wedded wife of the deceased Amritpal Singh in the year 2013. Hence, after his death she is entitled to inherit the estate of her deceased husband according to law alongwith plaintiff. Hence, this issue is decided against the plaintiff and in favour of the defendant.”

8. At this stage, learned counsel for the petitioner submits that the petitioner has already challenged the aforesaid judgment and decree dated 15.09.2022 (Annexure P-12) by filing an appeal.

9. Considering the fact that the petitioner has already lost before the Civil Court, and although an appeal against the said judgment and decree dated 15.09.2022 (Annexure P-12) is stated to be pending; however, I see no compelling reason which may warrant interference by this Court, particularly in light of the order dated 18.03.2016 (Annexure P-5) passed by the learned Collector, Khanna, whereby a direction has been issued to

incorporate an entry in the revenue record regarding the pendency of the civil dispute between the parties.

10. Keeping in view the above discussion, the present writ petition fails and is, accordingly, dismissed, with the observation that the parties shall abide by the final decision to be rendered in the proceedings before the Civil Court.

11. All the pending application(s), if any, shall also stand closed.

12.03.2026

Apurva

**(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No