



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

112

**CRWP-13314-2025
Date of decision: 09.02.2026**

SALOCHANA DEVI WIDOW OF SH. BAL KRISHANPetitioner

VERSUS

STATE OF HARYANA AND OTHERSRespondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Ajay Kumar Gupta, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed for seeking directions to the respondents to protect the rights and property (residential house) of the petitioner herein from persons, who are alleged to be taking advantage of the absence of the petitioner and to grab her property. An additional prayer is made for registration of an FIR, on the complaint dated 03.10.2025, submitted by the petitioner and to depute a Senior Officer to protect the house of the petitioner from the mischievous designs of her neighbour who is taking benefit of the absence of the petitioner to grab her house.

2. Learned Counsel has vehemently argued that notwithstanding the petitioner having submitted representation to the NRI Cell, which has been statutorily constituted under the scheme, the said Cell has failed to take

any steps and thus abdicated its responsibility. He further contends that since the petitioner is a resident of Australia, it is not possible for the petitioner to monitor her property and that taking advantage of her absence, her neighbour broke open the back wall and opened a gate into the said property thus committing a punishable offence. It was thus incumbent upon the respondent agency to have registered an FIR since *prima facie* cognizable offence was disclosed from the details furnished by the petitioner.

3. He has also placed reliance on the judgment of State of Bihar versus Subhash Singh reported as 1997 (4) SCC 430 to contend that judicial review of an administrative action is an essential part of Rule of Law and bureaucracy is accountable for its acts done under the rules and judicial review done by the Court.

4. It is vehemently argued that helplessness and practical incapacity of a NRI should not be an aid to the miscreants to seize their property and then to compel them to a long drawn legal battle to reclaim what is lawfully theirs. The non-responsiveness by the respondent(s) gives rise to an actionable claim against them. An argument was sought to be advanced that BNSS empowers registration of Zero FIR, regardless of jurisdiction only to ensure safeguard of constitutional guarantees. Failure by the authorities, to act in times of need, evaporates the constitutional guarantees.

5. I have heard learned Counsel appearing on behalf of the petitioner and have gone through the documents appended alongwith the present petition.

6. The instant petition has been styled as a protection petition to safeguard the property/residential house of the petitioner herein from the

alleged attempts being made by the neighbours to forcibly encroach upon the said property. Ordinarily, such a prayer for protection of a property, ought to be made before the Civil Court unless cognizable offence is made out from the undisputed facts. The facts of the present case however reflect a chequered history to it and selective disclosures. The complaint in the present case has been submitted against three persons i.e. Sandeep Kumar son of late Bal Krishan (son of the petitioner herein), ii) Dharamveer son of Hari Ram and Rattan Lal son of Hari Ram, who are all residents of Village Bhagal, Tehsil Guhla, District Kaithal. The said Sandeep Kumar is the other son of the petitioner herein. The allegation in the present case, by the petitioner, is to the effect that her share in plot measuring 04 marlas falling in Khewat No. 856 in Village Bhagal, Tehsil Guhla, District Kaithal has been allegedly transferred by her son Sandeep Kumar in favour of the other respondents, by forging one agreement dated 04.10.2017. The element of forgery is sought to be displayed by the signatures featuring 'Bal Krishan instead of Bal Kishan'. The petitioner claims that the said agreement to sell, entered into by her husband in favour of the accused, was never signed by her late husband and no earnest money had ever been received by her from Sandeep against the aforesaid estate. It is further averred that Sandeep-son of the petitioner herein, had inevitably sold the aforesaid house to one Smt. Dhanpati wife of Ram Singh by way of executing the sale deed dated 16.05.2023 and that possession of the house has statedly been taken on the strength of the said registered sale deed. It is further undisputed that Bal Krishan-late husband of the petitioner had died in November, 2020 i.e. much later than the agreement to sell dated 04.10.2017.

7. *Prima facie*, it is a case of succession *inter se* between two brothers and the mother. While the mother is seemingly in league with her son Naresh, with whom she is staying in Australia, the other son is in the village itself. The allegations being levelled against the respondents, who are subsequent purchasers of the property, on the strength of the executed sale deed, are not *ipso facto* sufficient for this Court to issue a direction to the authorities to initiate proceedings against them for having purchased the said property. The said aspect is required to be established before a Civil Court by leading cogent evidence. The Agreement to Sell is now being sought to be disputed after more than 08 years of the execution of document and after the death of the executant.

8 Considering it from the date of execution of the document, recourse to civil remedy shall have to overcome the laws of limitation as well. Certain rights thus get vested in subsequent purchasers by efflux of time.

9 The Jamabandi shows that the 04 marla area was under the joint ownership of Bal Krishan, Rattan Lal and Dharamvir. The Agreement to Sell dated 04.10.2017 was executed by all these co-owners in favour of Sandeep son of Bal Krishan for a sum of Rs. 8 lakhs. The said Sandeep (son of petitioner) sold some portion of the land i.e. 1 marla 3 Sarsai to the other accused. There is no evidence of the property ever having fallen to the share of the petitioner herein. Hence, there is much more to the case than what catches the eye. A mere general reference to the precedents, without the factual matrix, is nothing more than a legal proposition. Blindfold application of the judgment would not be undertaken by this Court only to

subserve interests and to pave shortcuts for the petitioner in place of an appropriate remedy.

10. This Court would not issue a direction merely on an asking and without being satisfied as to why the remedy before the Illaqa Magistrate is incapable of delivering justice. The sequence of events shows that there is a long standing documented property dispute amongst heirs, hence, parties had all the time to approach the Illaqa Magistrate or the Civil Courts. There is thus no overnight urgency that cropped up.

11. Attempts at criminalization of Civil disputes is not new and High Court has to see the entire factual matrix and not just the legally crafted complaints which may, if examined stand alone, reflect on existence of ingredients of an offence. High Court does not act as a Post-Master or undertake a clerical exercise of checking the boxes. Once it is called upon to exercise its inherent jurisdiction, notwithstanding the party having alternative remedy, it needs to be satisfied that the other remedies are not efficacious or equipped to protect the rights. None of the said tests are being satisfied in the present case.

12. Finding no grounds to issue any such direction, as is being prayed for and noticing that there is an efficacious alternative remedy available to the petitioner to pursue before the Civil Court/Judicial Magistrate 1st Class, the present petition is accordingly dismissed. The petitioner may, if so advised, take recourse to alternative remedies.

(VINOD S. BHARDWAJ)
JUDGE

FEBRUARY 09, 2026
Vishal Sharma

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No