

IN THE COURT OF SH. SAMAR VISHAL,
ADDITIONAL SESSIONS JUDGE-02, SOUTH DISTRICT,
SAKET COURTS, NEW DELHI

CRIMINAL REVISION PETITION NO. 65/2024
CNR No. DLST01-000940-2024

IN THE MATTER OF
Sh. Anil Kumar Saini
S/o Late Sh. Mangal Dass Saini
R/o A-8, South Extn. Part-1,
C/o Gyan Chand, Malu, New Delhi

..... Revisionist

Versus

Col. Bhupinder Singh Bains
S/o Late Sh. D.S Bains
R/o H.No. 1539, Sector-34D,
Chandigarh

..... Respondent No. 1

Col. Mohanjit Singh Bains
S/o Late Sh. D.S Bains
R/o 78, Transit Camp Type,
'A' Pin-919278

..... Respondent No. 2

Smt. Satinder Chugh,
W/o Sh. Rajan Chugh
D/o Late Sh. D.S Bains
R/o 5, Chawterbury Close
Chigwell, Essex, HG, 0077

..... Respondent No. 3

Smt. Rupj Jamwal,
W/o Sh. Maj. Gen. D.K. Kamwal
D/o Late Sh. D.S Bains
R/o H.No. 2, CJHS Wellnes
Complex, Sadar Bazar, Delhi Cantt.
New Delhi

..... Respondent No. 4

Smt. Shivani Garg
W/o Sh. Anup Garg
R/o M-78, 2nd Floor, M Block
Market, Above Bank of India,
Greater Kailash-II, New Delhi.

Also at:- 370/8, Model Town,
Narwana-126110, (Haryana)

..... Respondent No. 5

Sh. Anup Garg
R/o M-78, 2nd Floor, M Block
Market, Above Bank of India,
Greater Kailash-II, New Delhi.

Also at:- 370/8, Model Town,
Narwana-126110, (Haryana)

..... Respondent No. 6

DATE OF INSTITUTION	: 08.02.2024
DATE OF RESERVING ORDER	: 12.03.2026
DATE OF PRONOUNCEMENT	: 01.04.2026

ORDER

1. The present revision petition has been filed by the petitioner, Ashok Kumar Saini (hereinafter referred to as “the complainant” or “the revisionist”), challenging the order dated 17.10.2023 passed by the learned Metropolitan Magistrate-06, South District, Saket Courts, New Delhi (hereinafter referred to as “the trial court”). By the said order, the learned Magistrate dismissed the application filed by the complainant under Section 156(3) of the Code of Criminal Procedure, 1973 (CrPC), wherein a direction was sought for registration of an FIR and investigation by the police.
2. The case of the revisionist, in brief, is that his father, late Mangal Das Saini, expired on 08.05.2009. According to him, he is the only legal heir of his father and, therefore, entitled to inherit his properties. It is stated that his father owned various immovable properties, including property

bearing No. L-23, Block L, measuring about 678 square yards, situated in South Extension Part-II, New Delhi (hereinafter referred to as “the property in question”).

3. It is further the case of the revisionist that the said property was originally in the name of his grandfather, late Sukh Ram Saini, and after his death, it devolved upon his father and thereafter upon the revisionist. The revisionist has also relied upon a Will dated 15.06.2005, allegedly executed by his father in his favour, to claim ownership over the property.
4. The revisionist alleges that in June 2019, he came to know that the property in question had been transferred by the respondents on the basis of forged and fabricated documents. It is stated that a copy of an old sale deed was shown to him, but upon verification, the details did not match with the records of the office of the Sub-Registrar. It is further alleged that the respondents thereafter transferred the property in favour of Shivani Garg.
5. On these allegations, the revisionist approached the learned trial court by filing an application under Section 156(3) CrPC, seeking a direction to the police to register an FIR and investigate the matter.
6. Before passing the impugned order, the learned trial court called for an Action Taken Report (ATR) from the police.

As per the ATR, the matter pertains to a dispute regarding ownership of the property in question.

7. Upon a conspectus of the material placed before it, the learned trial court declined the prayer under Section 156(3) CrPC. The court observed, inter alia, that in the present case, the complainant is aware about the name and address of the respondents. As per ATR the matter pertains to dispute of ownership of property no. L23, South Ext. Part II, New Delhi. It is further mentioned in the ATR that notice was served to M/S DLF Housing, office of Department of Delhi Archives for matching the relevant records. The concerned documents Reg No. 516/237, 26872887 etc. were not found in the book of Department of Delhi Archives. Prima-facie it appears from the ATR that title of respondents is doubtful. However, it appears that the entire evidence is within the reach of the complainant and no investigation by the police is required at this stage. Further, the documentary evidence is also within the reach of the complainant. There is question of title dispute in the present case and it appears that inquiry under section 202 Cr.P.C. can easily be initiated to inquire into the facts of the present case. Accordingly, the learned trial court concluded that in these circumstances, there is no requirement of registration of FIR or investigation by the police. The trial Court observed that if required later on, the investigation may be directed under section 202 CrPC.

8. Learned counsel for the revisionist has argued that the allegations clearly disclose commission of cognizable offences such as cheating and forgery, and that police investigation is necessary to collect evidence and ascertain the truth, particularly with regard to the alleged forged documents.
9. On the other hand, learned counsel for the respondents have supported the impugned order and submitted that the dispute is primarily civil in nature relating to ownership of property, and that the complainant has adequate remedies available before the civil court as well as under the procedure prescribed in Chapter XV of the CrPC.
10. I have heard the learned counsels for the parties and have carefully perused the record.
11. Section 156(3) CrPC empowers a Magistrate to direct the police to investigate a cognizable offence. However, it is well settled that this power is discretionary and is to be exercised with care. An order under Section 156(3) results in registration of an FIR and sets the criminal law into motion; therefore, such power should not be exercised in a routine or mechanical manner.
12. The law on this issue is clear that before directing investigation under Section 156(3) CrPC, the Magistrate must consider whether such investigation is necessary. One important factor is whether the complainant is in a

position to produce evidence on his own. If the material evidence is within the knowledge and reach of the complainant, the Magistrate may proceed under Sections 200 and 202 CrPC instead of directing police investigation.

13. In the present case, the main dispute relates to ownership and title of the property in question. The allegations are based on documents such as sale deeds and a Will. The question whether these documents are genuine or not would require examination of evidence, which can be done by the court during inquiry.
14. It is also important to note that the complainant is aware of the identities of the persons against whom allegations have been made. The evidence relied upon is largely documentary and can be produced by the complainant himself. No special circumstances have been pointed out which would make police investigation necessary at this stage. The learned trial court has rightly relied upon the judgment of *M/s Skipper Beverages Pvt. Ltd. v. State 2001 IV AD (Delhi)*, wherein it has been observed that it is true that Section 156(3) of the Code empowers a Magistrate to direct the police to register a case and initiate investigations but this power has to be exercised judiciously on proper grounds and not in a mechanical manner. In those cases where the allegations are not very serious and the complainant himself is in possession of evidence to prove his allegations there should be no need

to pass orders under Section 156(3) of the Code. The discretion ought to be exercised after proper application of mind and only in those cases where the Magistrate is of the view that the nature of the allegations is such that the complainant himself may not be in a position to collect and produce evidence before the Court and interests of justice demand that the police should step in to help the complainant. The police assistance can be taken by a Magistrate even Under Section 202(1) of the Code after taking cognizance and proceeding with the complaint under Chapter XV of the Code.

15. Therefore the learned trial court has rightly chosen to proceed under chapter XV of the Code as the present dispute is more in the nature of a civil dispute regarding the ownership of an immovable property. Under this provision, the Magistrate has sufficient powers to inquire into the matter, examine witnesses, and even seek assistance of the police, if required at a later stage. Therefore, the complainant is not left without a remedy.
16. Merely because allegations of cheating or forgery have been made, it does not mean that the court must direct registration of an FIR in every case. The court has to see the nature of the dispute. If the dispute is mainly civil in nature, the criminal process should not be used unnecessarily.

17. This Court finds that the learned trial court has considered all relevant aspects and has passed a reasoned order. The discretion exercised by the learned Magistrate cannot be said to be illegal or improper.
18. The scope of interference in revision is limited. Unless the impugned order suffers from any illegality, irregularity, or material error, this Court would not interfere with the same. No such defect is found in the present case.
19. Accordingly, this Court finds no merit in the present revision petition. The same is dismissed.
20. Ordered accordingly.

**PRONOUNCED IN OPEN COURT ON
THIS 1st April 2026**

**(Samar Vishal)
ASJ-02, South District
Saket Courts, New Delhi
01.04.2026**

Certified that this Order contains 08 pages and each page bears my signatures.

**(Samar Vishal)
ASJ-02, South District
Saket Courts, New Delhi
01.04.2026**