

IN THE COURT OF SHRI GAGANDEEP SINGH GARG,
ADDITIONAL DISTRICT JUDGE,
BATHINDA
(UID No.PB00295)

CNR No. PBBT010055202023	Case No. CA/124/2023	
	Presented on :	17-05-2023
	Registered on :	18-05-2023
	Decided on :	30-03-2026

Sukhpal Kaur, aged about 40 years, wife of Hardip Singh son of Babu Singh, resident of near Guru Ghar, village Kaureana, Tehsil Talwandi Sabo, District Bathinda.

.....Appellant/Defendant No.3.

Versus

- Marra Singh son of Mukand Singh son of Jai Singh, resident of village Kaureana, Tehsil Talwandi Sabo, District Bathinda, (now deceased) through his Lrs;-
 - Amarjit Kaur widow of Marra Singh son of Mukand Singh;
 - Gurdas Singh son of Marra Singh son of Mukand Singh;both residents of village Kaureana, Tehsil Talwandi Sabo, District Bathinda.
- Veerpal Kaur daughter of Marra Singh, now wife of Ranjit Singh son of Nahar Singh, resident of village Hakamwala, Tehsil Budhlada, District Mansa.
- Guddi Kaur daughter of Mukand Singh son of Jai Singh, now wife of Hakam Singh son of Nand Singh, resident of village Barn, Tehsil Sardulgarh, District Mansa.
- Jailo Kaur daughter of Mukand Singh son of Jai Singh, now wife of Teja Singh son of Ajmer Singh, resident of village Jhanduke,

Tehsil Sardulgarh, District Mansa.

.....Respondents-plaintiffs.

4. Ram Singh son of Labh Singh son of Kartar Singh, adopted son of Nazar Singh, resident of village Jhanduke, Tehsil Sardulgarh, District Mansa.
5. Gurdev Kaur @ Balbir Kaur, widow of Nazar Singh son of Mukand Singh, resident of village Jhanduke, Tehsil Sardulgarh, District Mansa.

.....Respondents-defendants No.1 and 2.

Appeal against Judgment and decree dated 15.4.2023 passed by the Court of Sh.Sudhir Kumar, PCS, learned Civil Judge (Junior Division), Talwandi Sabo, in Civil Suit bearing CS-105/2017 dated 11.4.2017 vide which the learned trial Court has decreed the suit of the plaintiffs-respondents for the relief of declaration to the effect that the plaintiffs are owners in possession in equal shares of land measuring 1.70 Marla being 1/24 share of 2 Kanal 1 Marla comprising in Khewat No.150, Khatauni No.238 bearing Khasra Nos.275(2-1) and 10 Marlas being 10/4896 share of 234 Kanal 16 Marlas comprising in Khewat No.151, Khatauni No.329 to 355, situated at village Kaureana, Tehsil Talwandi Sabo, District Bathinda on the basis of natural succession of the deceased Nazar Singh and set aside Mutation No.2412 of village Kaureana dated 28.2.2017 sanctioned in favour of the defendants No.1 and 2 regarding the inheritance of the deceased Nazar Singh and further the learned trial Court has also set aside the sale deed No.5219 dated 15.3.2017 executed by the defendants No.1 and 2 in favour of defendant No.3/appellant as well as mutation No.2416 dated 17.3.2017 sanctioned on the basis of the said sale deed in favour of the defendant No.3/appellant and also decreed the suit of the plaintiff/respondents for the relief of permanent injunction and has restrained the defendants/appellants from interfering in the possession of the plaintiffs over the suit property and from alienating the same in any manner, wrongly, illegally and against law, facts and principles of natural justice.

Prayer: For accepting the appeal, for setting aside impugned Judgment and decree dated 15.4.2023 and for dismissal of the suit of the plaintiffs-respondents No.1 to 3 with costs throughout.

Present: Sh.Gursewak Singh Sidhu, Advocate for appellant.

Sh.Bhupinder Singh Brar, Advocate for respondents No.1(i, ii and iii), 2 and 3.

Respondent No.4 exparte vide order dated 2.8.2024.

Respondent No.5 exparte vide order dated 17.5.2024.

JUDGMENT

1. The appellant-defendant No.3 aggrieved of the Judgment and decree dated 15.4.2023 passed by the learned Trial Court has preferred the present appeal. The civil suit filed by the plaintiffs-respondents No.1 to 3 bearing CIS Registration No.CS/105/2017 dated 11.4.2017 for declaration and for permanent injunction has been decreed vide Judgment dated 15.4.2023. The appellant-defendant No.3 has prayed for setting aside of the Judgment and decree dated 15.4.2023 after acceptance of the appeal, thereby for dismissal of the suit filed by the plaintiffs-respondents No.1 to 3 with costs.

2. Notice of the appeal was served upon the respondents. The respondents No.1 to 3-plaintiffs, appeared through counsel and contested the appeal. The respondents No.4 and 5 did not appear despite service and they were proceeded against exparte vide order dated 2.8.2024 and 17.5.2024 respectively.

3. The record of the learned trial Court has been requisitioned and perused.

FACTS PLEADED IN THE PLAINT.

4. The plaintiffs - respondents no. 1 to 3 have filed a civil suit for declaration to the effect that the plaintiffs are owner in possession of the suit property as detailed in the head note of plaint on the basis of natural succession of Nazar Singh who died unmarried and issueless. The suit property was ancestral in the hands of Nazar Singh. It is prayed that the entries in the revenue record are liable to be corrected. Mutation No.2412 dated 28.2.2017 has been entered in favour of defendants No.1 and 2 on the basis of wrong and fraudulent pedigree table pertaining to suit land. The same is illegal. It is prayed that the sale deed No.5219 dated 15.3.2017 executed by defendants No.1 and 2 in favour of defendant No.3 and mutation No.2416 dated 17.3.2017 regarding the land measuring 1.70 marla is illegal, null and void. It is pleaded that the plaintiffs continued to be owner in possession of the suit land. The plaintiffs have prayed for the relief of injunction for restraining the defendants No.1 to 3 from interfering in the possession of the plaintiffs over the suit land and from transferring the suit property in any manner whatsoever on the basis of the entry in the revenue record. It is pleaded that Nazar Singh was the owner of the suit property. He is the brother of Nachhatar Singh, Jailo, Mara Singh, Guddi and Basso. Nachhattar Singh and

Basso have since died. They are the children of Mukand Singh and Ajmer Kaur. The said Ajmer Kaur has since died. Jai Singh is the father of Mukand Singh. It is pleaded that Nazar Singh died unmarried and issueless on 23.3.2011 leaving behind the plaintiffs as his legal heirs, who are entitled to inherit the estate left behind by Nazar Singh in equal shares. The plaintiffs came to know that the share of Nazar Singh in khewat No.150, khatauni No.328 has been got mutated by defendants No.1 and 2 claiming themselves to be son and wife of deceased Nazar Singh. They further sold the share of the land to defendant No.3 vide sale deed dated 15.3.2017. Mutation No.2416 has been sanctioned on the basis of the sale deed. It is pleaded that mutation No.2412 dated 28.2.2017 pertaining to inheritance of Nazar Singh is illegal, null and void. It is pleaded that Nazar Singh died at village Jhanduke in the house of his sister. The defendant No.2 is known as Balbir Kaur and her actual name is Gurdev Kaur. She is the widow of Labh Singh. The defendant No.1 is the son of Labh Singh. The mutation of inheritance was sanctioned in connivance with the revenue authorities on the basis of a wrong pedigree table. The defendant No.1 is wrongly shown as his son and defendant No.2 is wrongly shown as wife of Nazar Singh. The mutation is recorded at Talwandi Sabo away from the village of the deceased. No notice was issued at the time of sanction of the same. The identity of the defendants No.1 and 2 was not checked. The

subsequent sale and mutation is also illegal. The defendants have failed to admit the right of the plaintiffs in the suit property. They have refused to acknowledge the request of the plaintiffs not to take the possession forcibly and not to transfer the land. Hence the suit.

5. The plaintiff No.1 died during the pendency of trial and he was impleaded through his legal heirs vide order dated 6.12.2017 passed by the learned trial Court.

PLEADINGS IN THE WRITTEN STATEMENT AND APPEARANCE OF THE DEFENDANTS.

6. The notice of the suit was served upon the defendants, who appeared through counsel and filed the written statement taking legal objection that the suit is not maintainable as the plaintiffs did not seek the relief of possession. It is pleaded that the defendant No.3 is in possession of the suit land measuring 1.70 marlas. She is the owner as per sale deed dated 15.3.2017. It is pleaded that the plaintiffs have no locus standi or cause of action to file the present suit. The plaintiffs have not come to the Court with clean hands and concealed material facts. The defendant No.3 is a bonafide purchaser and her right is protected under the Transfer of Property Act. The remaining suit land is owned by defendants No.1 and 2. The revenue record shows the ownership of defendants No.1 and 2 and the defendant No.3 had verified this fact at the time of execution of sale deed dated 15.3.2017 which is a legal document. The defendants

No.1 and 2 being the adopted son and widow of Nazar Singh inherited the property upon his death. The mutation of inheritance bearing No.2412 dated 28.2.2017 was rightly sanctioned in their favour. The mutation is legal and the defendants No.1 and 2 are the owners in possession of the suit property. They were competent to execute the sale deed dated 15.3.2017. It is pleaded that the suit is not valued properly for the purpose of Court fee and jurisdiction. On merits, the pleading pertaining to ownership of Nazar Singh is admitted. The pedigree table relied upon by the plaintiffs is admitted. It is pleaded that defendant No.2 was earlier the wife of Labh Singh. After the death of her husband, she solemnized marriage with Nazar Singh. It is pleaded that defendant No.1 is adopted son of Nazar Singh. Therefore, the plaintiffs are not the legal heir left behind by the deceased. The remaining pleadings of the plaint are denied. Denying the averments made in the plaint, it is prayed that the suit be dismissed.

REPLICATION

7. The plaintiffs filed replication reiterating the pleading of the plaint and contradicting the pleading of the written statement. It is pleaded that FIR No.167 dated 12.7.2017 P.S.Talwandi Sabo, under Section 419,420,465,467,468,471,120-B IPC has been registered against defendant No.1 and 2. It is pleaded that Ram Singh defendant No.1 inherited the estate of his grand father Kartar Singh (father of

Labh singh) vide mutation No.12375 dated 9.2.2015 on the basis of a registered will. As per the pedigree table shown on the mutation sheet, the defendant No.2 is mentioned as widow of Labh Singh.

ISSUES

8. On the basis of the pleadings of the parties, the following issues were framed by the learned Trial Court vide order dated 1.5.2018:-

1. Whether the plaintiffs are entitled to the relief of declaration as prayed for?OPP
2. Whether the plaintiffs are entitled to the relief of permanent injunction as prayed for?OPP
3. Whether the suit is not maintainable?OPD
4. Whether the plaintiffs have no locus standi and cause of action to file the present suit?OPD
5. Whether the plaintiffs have concealed the material facts from the Court?OPD
6. Whether defendant No.3 is bonafide purchaser for consideration, as alleged?OPD
7. Whether the suit is not properly valued for the purpose of Court fee and jurisdiction?OPD
8. Relief.

EVIDENCE

9. In order to prove their case the plaintiffs got examined the witnesses as under:-

Sr. No.	Name and rank	Nature of evidence
PW-1	Gurdas Singh	One of LR of plaintiff No.1 Marra Singh
PW-2	Bawa Singh	Resident of village of plaintiff
PW-3	Ram Sanchi	Registration Clerk, Talwandi Sabo
PW-4	Naresh Kumar	Official of Food and Supply Department, Sardulgarh.

The plaintiffs tendered in evidence the documents as under:-

Sr. No.	Exhibit number	Description
1	Ex.P1 and Ex.P2	Jamabandi for the year 2014-2015
2	Ex.P3	Death certificate of Nazar Singh
3.	Ex.P4	Mutation No.2412 of inheritance of Nazar Singh
4.	Ex.P5	Copy of Sale deed No.5219 dated 15.3.2017
5.	Ex.P6	Copy of Registered Will No.80 dated 30.8.2013 of Kartar Singh.
6.	Ex.P7	Mutation No.12373 of inheritance of Kartar Singh
7.	Ex.P8	Voter list for the year 2017
8.	Ex.P8	FIR No.167 dated 12.7.2017
9.	Ex.P9	Copy of Report under Section 173 Cr.P.C. presented in FIR No.167 dated 12.7.2017
10.	Mark PW3/A	Copy of Aadhar Card of Ram Singh son of Labh Singh.
11.	Ex.PW3/B	Copy of Voter Card of Balvir Kaur
12.	Ex.PW4/A	Copy of re verification form under National Food Security Act 2013.
13.	Ex.PW3/B	Consent for use of Aadhaar Information for PDS

14	Mark A	Copy of Ration Card of Gurdev Kaur wife of Labh Singh
15	Mark B	Copy of Aadhar Card of Gurdev Kaur wife of Labh Singh.
16	Mark C and Mark D	Copy of Aadhar Card of Ram Singh son of Labh Singh

Thereafter, the evidence of plaintiffs was closed

10. On the other hand, in order to rebut the case of plaintiffs, the defendants got examined the witnesses as under:-

Sr. No.	Name and rank	Nature of evidence
DW-1	Gurdev Kaur @ Balbir Kaur	Defendant No.2
DW-2	Sukhpal Kaur	Defendant No.3 (appellant)
DW-3	Gurcharan Singh	Resident of village of the defendants

The defendants tendered in evidence the documents as under:-

Sr. No.	Exhibit number	Description
1	Ex.D1	Copy of Aadhar Card of Gurdev Kaur wife of Nazar Singh.
2	Ex.D2	Copy of Aadhar Card of Ram Singh son of Nazar Singh.
3.	Ex.D3	Copy of Voter Card of Nahar Singh son of Mukand Singh
4.	Ex.D4	Copy of Voter Card of Gurdev Kaur wife of Nahar Singh.

6	Mark A1	Copy of resolution passed by Panchayat of village Kaureana
7.	Mark D1/A	Copy of Aadhar Card of Ram Singh son of Najar Singh.
8.	Mark D1/B	Copy of Voter Card of Nahar Singh son of Mukand Singh
9.	Mark D1/C	Copy of Voter Card of Gurdev Kaur wife of Nahar Singh.

Thereafter, the evidence of defendants was closed.

11. The plaintiffs did not lead any evidence in rebuttal.

JUDGMENT OF THE LEARNED TRIAL COURT

12. The learned trial Court passed the impugned Judgment dated 15.4.2023, thereby decreeing the suit filed by the plaintiff-respondents. The plaintiffs were declared as owners in possession of the suit property on the basis of natural succession on the death of Nazar Singh. The sale deed dated 15.3.2017 was declared as illegal, null and void and inoperative against the rights of the plaintiffs. The defendants No.1 to 3 were restrained from interfering in the possession of the plaintiffs and from transferring the suit property.

GROUND OF APPEAL AND ARGUMENTS RAISED ON BEHALF OF APPELLANT-DEFENDANT NO.3

13. The present appeal has been filed by appellant Sukhpal Kaur, who was the defendant No.3 in the main suit. The defendants No.1 and 2 have been mentioned as proforma respondents. It is argued that the appeal has been filed within the period of limitation.

It is argued that the impugned Judgment and decree is illegal and against the principles of natural justice. The facts pleaded and the evidence led by the appellant has not been appreciated. The issues No.1 and 2 have been decided wrongly. The plaintiff-respondents have no concern with the inheritance of Nazar Singh, who solemnized marriage with defendant No.2 and adopted the defendant No.1 as his son. It is argued that the defendants have proved the copies of the Aadhar Card and voter Card in which the defendant No.1 is mentioned as son of Nazar Singh and defendant No.2 is recorded as the wife of Nazar Singh. Even the ration card of defendants No.1 and 2 with Nazar Singh has been proved by the defendants. The defendants also proved the resolution Mark A1 passed by the Gram Panchyat. It is argued that there is sufficient evidence to show that Nazar Singh was not unmarried. The witness PW-1 admitted in his cross-examination that Nazar Singh was residing at village Jhanduke. The mutation of inheritance has been rightly sanctioned. It is argued that the appellant is a bonafide purchaser of the suit property after due verification of the revenue record showing the title and possession of defendants No.1 and 2 over the suit property. It is argued that the right of the appellant is protected under the Transfer of Property Act. It is argued that presumption of truth is attached with the revenue record. It is argued that the learned trial Court has wrongly decided issues No.3 to 7 and

the learned trial Court did not appreciate the case law relied upon by the appellant. It is, therefore, prayed that the appeal be accepted and the impugned Judgment and decree be set-aside. The suit filed by respondents No.1 to 3 be dismissed.

COUNTER ARGUMENTS ON BEHALF OF RESPONDENTS-PLAINTIFFS NO.1 TO 3

14. On the other hand, it is argued by the learned counsel for contesting respondents that the impugned Judgment is well reasoned and the same is based upon proper appreciation of the facts of the case and the relevant law of the land. It is not proved that the defendant No.1 is the adopted son or that the defendant No.2 is the wife of deceased Nazar Singh. Therefore, the mutation of inheritance could not have been sanctioned in their favour on the basis of natural succession. The defendants No.1 and 2 have not concern with the suit property. Therefore, they could not have transferred the same to the defendant No.3. It is argued that the sale by a non-owner is void ab initio. It is, therefore, argued that the appeal is liable to be dismissed and the impugned Judgment is liable to be upheld.

FINDINGS IN APPEAL

15. In order to prove the case, the plaintiffs got examined PW-1 Gurdas Singh who is the son and legal heir of plaintiff No.1 Marra Singh. He tendered in evidence the duly sworn affidavit Ex.PW1/A reiterating the pleading on oath. He also tendered in

evidence the documents Ex.P1 to Ex.P8 and the documents Mark A, Mark C and Mark D. During cross-examination it is stated by him that he never inquired about the status of inheritance on the death of Nazar Singh. It is admitted by him that the Aadhar Card, voter card and ration card of Nazar Singh are prepared at the address of village Jhanduke. It is reiterated by him that they came to know about the dispute when the fraud was committed against them. It is claimed by him that they used to take the land of Nazar Singh on lease. It is specifically denied by him that the defendant No.3 is in possession over the suit property. It is claimed by him that the document Mark D1/A has been falsely prepared. The case of the defendants was put to him in the form of suggestions and he denied the same.

16. The witness PW-2 Bawa Singh has deposed through his duly sworn affidavit Ex.PW2/A. He reiterated the pleadings on oath. It is claimed by him that the defendant No.2 is known to him since the date of her marriage with Labh Singh.

17. Thereafter the plaintiffs got examined PW-3 Ram Sanchi, Registration Clerk, Talwandi Sabo, who produced the summoned record pertaining to sale deed No.5219 dated 15.3.2017 executed by defendants No.1 and 2 in favour of defendant No.3. The same is Ex.P5. It is stated by him that at the time of execution of the sale deed, Ram Singh defendant No.1 has filed copy of his aadhar card in which he is shown as the son of Labh Singh and resident of

village Jhanduke. The photocopy of the Aadhar Card is Mark PW3/A. It is admitted by him that Balbir Kaur had produced her voter card as the document of identification which is Ex.PW3/B in which she is shown as the wife of Nazar Singh.

18. Finally the plaintiffs got examined PW-4 Naresh Kumar official of Food and Supply Department, Sardulgarh. It is stated by him that village Jhanduke falls within the jurisdiction of Sardulgarh. He produced the summoned record. It is deposed by him that as per the National Food Security Act, 2013, the verification of particulars of Labh Singh were made. As per the record, the defendant No.1 is shown as the son of Labh Singh and defendant No.2 is shown as wife of Labh Singh. The defendant No.2 had appended her thumb impression on the record. He tendered in evidence the copy of the re-verification form as Ex.PW4/A and the Aadhar information document as Ex.PW4/B. It is admitted by him that no date is mentioned on the said record. There is no document pertaining to the identification of Gurdev Kaur.

19. Thereafter in order to rebut the case of the plaintiffs, the defendant No.2 appeared as DW-1 and reiterated the pleading on oath through her duly sworn affidavit Ex.DW1/A. It is stated by her that her husband Labh Singh died about 35 years ago. She gave birth to four children out of the wedlock with Labh Singh. It is admitted by her that in the Aadhar Card, voter card and ration card issued in the

name of her children, the name of Labh Singh is mentioned as their father. It is admitted by her that her father-in-law Kartar Singh (father of Labh Singh) executed a registered Will in favour of her sons namely Jagsir Singh and Ram Singh and the property has been transferred in their favour on the basis of the Will. She did not deny the fact that at the time of sanction of mutation on the basis of the Will, she was shown as widow of Labh Singh in the pedigree table. She claimed ignorance of the fact if an FIR has been registered against her pertaining to forgery in the record. It is admitted by her that name of Labh Singh is mentioned as her husband in her Aadhar Card Mark B.

20. The defendant No.3/appellant Sukhpal Kaur appeared as DW-2 and reiterated the pleadings on oath through her duly sworn affidavit Ex.DW2/A. It is admitted by her that Labh Singh was known to her who died in the year 1992-1993. It is admitted by her that defendant No.1 is the son and defendant No.2 is the widow of Labh Singh. She also admitted the fact that Labh Singh is mentioned as father of Ram Singh in the Aadhar Card of defendant No.1. She had never seen any document of adoption of Ram Singh.

21. Finally the defendants got examined DW-3 Gurcharan Singh through his duly sworn affidavit Ex.DW3/A and he reiterated the claim of defendants on oath. Labh Singh and Kartar Singh were not known to the deponent. It is merely stated by him that he had

only “heard” about the marriage between defendant No.2 and Nazar Singh. He had a dispute pertaining to a passage with the plaintiffs. He is the Sarpanch of the village and admittedly the plaintiff No.1 did not cast his vote in his favour.

22. It is not in dispute that the suit property as detailed in the head note of plaint was owned by Nazar Singh. None of the parties to the suit, dispute the said fact. The death of Nazar Singh is proved vide death certificate Ex.P3. The relationship between the plaintiffs and Nazar Singh is also not in dispute. The plaintiffs are the siblings of Nazar Singh. It is not the case of the defendants that Nazar Singh had any wife or son living at the time of his death apart from defendants No.1 and 2. It is the case of the plaintiffs-respondents that Nazar Singh died unmarried and issueless. His mother Ajmer Kaur has also since died. Therefore, the plaintiffs are the only surviving class-II legal heirs left behind by Nazar Singh. Accordingly, it is their pleaded case that they are liable to succeed to the estate left behind by Nazar Singh.

23. On the other hand, it is the case of the defendant that earlier the defendant No.2 was married to Labh Singh. The defendant No.1 was born from the marriage of defendant No.2 with Labh Singh. Thereafter, said Labh Singh has since died. It is argued that the defendant No.2 solemnized marriage with Nazar Singh and the defendant No.1 was adopted as his son by Nazar Singh. It is, therefore, argued that since the defendants No.1 and 2 were the son and wife left behind by the deceased

at the time of his death, therefore, the mutation of inheritance on the basis of natural succession bearing mutation No.2412 Ex.P4 was entered in favour of the defendants No.1 and 2. It is argued that the said defendants were the lawful owner in possession of the suit property. A part of the suit property was thereafter sold by defendants No.1 and 2 to the defendant No.3 vide sale deed Ex.P5.

24. In the present case there is no pleading and evidence led by the defendants No.1 and 2 to prove the date, month, year, time and place of the alleged solemnization of the marriage between the defendant No.2 with Nazar Singh. It is not established if any such marriage valid under the customary law or Hindu Law or under Special Marriage Act was solemnized between defendant No.2 and Nazar Singh. No evidence has been led by the defendants to prove that the defendant No.2 was residing with Nazar Singh in the status of a husband and a wife. The period for which any such status was adhered to by defendant No.2 alongwith Nazar Singh is neither pleaded nor proved on record. There is no evidence to prove the existence of an arrangement between the two whereby both of them were residing together as husband and wife, so as to raise a presumption of marriage between defendant No.2 and Nazar Singh. Further there is no evidence on record to show that the defendant No.1 was adopted by Nazar Singh as his son. The alleged date, month, time, place, mode and manner of the alleged adoption has neither been pleaded nor proved by the defendants in any evidence whatsoever. The

alleged age of defendant No.1 at the time of the alleged adoption is not proved by the defendants. There is no witness examined by the defendants who would claim that any such adoption took place in his presence. There is no pleading and evidence to the effect that defendant No.1 was capable of being taken in adoption. It is not proved that Nazar Singh was capable of taking defendant No.1 in adoption. There is no pleading and evidence to show that a valid adoption took place in this regard. Therefore, the entire claim raised by the defendants pertaining to their relationship with Nazar Singh is not proved with any evidence whatsoever.

25. It has come on record that Kartar Singh was the father of Labh Singh and grand father of defendant No.1. It is not in dispute that said Kartar Singh executed a registered Will Ex.P6 on 30.8.2013 bequeathing some part of his estate in favour of defendant No.1 proclaiming him to be the son of Labh Singh. The said Nazar Singh has died on 23.3.2011. Therefore, even after the death of Nazar Singh, the defendant No.1 represented himself to be the son of Labh Singh and managed to get the mutation of inheritance sanctioned pertaining to the Will Ex.P6 in his favour. Mutation No.12373 Ex.P7 was entered on 9.2.2015 with a pedigree table showing the defendant No.1 as the son and the defendant No.2 as the widow of Labh Singh. Therefore, the defendants No.1 and 2 represented themselves to be the legal heirs of Labh Singh even after the death of Nazar Singh. As such the oral claim of the defendants No.1 and 2 about their relationship with Nazar Singh is

falsified when the defendants joined and admitted the mutation proceedings carried out vide mutation document Ex.P7.

26. The defendants have merely relied upon Aadhar Card Ex.D1, Ex.D2, Voter Card Ex.D4 to claim that the defendants No.1 and 2 were shown as son and wife of Nazar Singh in the official record. I am of the considered opinion that the said documents in itself can not be considered as the valid proof of the existence of matrimonial relationship between defendant No.2 and Nazar Singh. The documents can not be considered in support of proof of adoption of defendant No.1 by Nazar Singh. The alleged panchayat resolution Mark A1 is not proved by the defendants as per law of evidence. Further the alleged panchayat resolution is not sufficient to prove the existence of valid marriage and adoption in favour of defendants No.1 and 2. If the defendants rely upon the said document to claim their status/relationship with Nazar Singh, then the defendants are required to answer the purport of the document Ex.P8 which is the voter list record. As per the same, as on 10.7.2019 the defendant No.2 is shown as the wife and defendant No.1 is shown as son of Labh Singh. Similarly, in the reverification form Ex.PW4/A, this fact is so recorded. Th relationship of Gurdev Kaur with Labh Singh is shown in ration card Mark A as well. It is an admitted fact that at the time of execution of the sale deed Ex.P5, the defendant No.1 placed on record copy of his Aadhar Card Mark PW3/A as a proof of his identification. As per the said document, Ram Singh is shown as son of Labh Singh. I am of the

considered opinion that the defendants No.1 and 2 were taking advantage of preparation of multiple identification documents. It has come on record that FIR Ex.P8 (wrongly numbered) has been registered against defendants No.1 and 2 under Section 419,420,465,467,468,471,120-B of Indian Penal Code pertaining to the said allegation of forgery in the record.

27. Accordingly, it is duly established on record that the defendants have failed to prove their relationship with deceased Nazar Singh. Reliance can be placed upon case law cited as “*Jaipal versus Surbhi, 2018(3) R.C.R. (Civil), 80 (P&H)*”, case law cited as “*Garja Singh etc. versus Surjit Kaur etc. 1991(1) HLR 46*” and case law cited as “*Nilima Mukherjee versus Kanta Bhusan Ghosh, 2001 (4) R.C.R. (Civil) 599*”. Therefore, the inheritance on the basis of natural succession could not have taken place in favour of defendants No.1 and 2 on the death of Nazar Singh and the defendants No.1 and 2 could not have acquired any ownership right in the suit property.

28. The defendant No.3-appellant claims herself to be a bonafide purchaser of the suit property having purchased the same from defendants No.1 and 2 vide sale deed Ex.P5. In this regard it is duly made out that sale deed Ex.P5 was got registered by the non-owners/defendants No.1 and 2 and therefore, no better title could have been conveyed by the said defendants in favour of the appellant. Any such sale made by a non-owner does not entail a plea of bonafide purchase. As per the celebrated principle

of *nemo dat quod non habet*, it is well established that no one can pass a better title than what he himself has. There is nothing on record to show that the appellant made any reasonable inquiry about the relationship of defendants No.1 and 2 with Nazar Singh. In the event of transfer based upon fraud, the purchaser can not take the plea of bonafide purchase. Therefore, the appellant can not seek protection under the guise of bonafide purchase and the sale deed Ex.P5 executed in favour of the appellant is liable to be declared as illegal, null and void having been executed by a non-owner who managed to secure the mutation of inheritance on the basis of false assertions.

29. The plaintiffs being the brothers and sister of deceased Nazar Singh, fall in entry II of the list of class-II legal heirs left behind by the deceased. They are entitled to inherit the estate left behind by the deceased in equal share. Therefore, they are liable to be declared as owners in possession of the suit property. The revenue record is liable to be corrected in this regard. The sale deed No.5219 dated 15.3.2017 is illegal and the same has been rightly set aside. The defendants have no concern with the suit property. They have no right to interfere in the possession of the plaintiffs and they are not entitled to transfer the suit property in any manner whatsoever.

30. Accordingly, issues No.1 and 2 are liable to be decided in favour of the plaintiffs and against the defendants. It is not proved that the suit is not maintainable. It is not proved that the plaintiffs have no locus

standi or cause of action to file the present suit. It is not proved that the plaintiffs have concealed material facts. The defendant No.3/appellant is not proved to be a bonafide purchaser for consideration of the suit property. It is not proved that the suit is not valued properly for the purpose of court fee and jurisdiction. Accordingly, issues No.3 to 7 are liable to be decided against the defendants and in favour of plaintiffs.

31. The impugned Judgment is legal and based upon proper appreciation of the facts as well as the evidence on record. Accordingly, the Judgment and decree dated 15.4.2023 under appeal are affirmed and upheld. The appeal is dismissed. Decree sheet be prepared. Trial Court record alongwith copy of the Judgment be returned. File be consigned to the Judicial Record Room, Bathinda.

Pronounced in open Court
Dated :30th March, 2026

(Suman Bala, Stenographer)

(Gagandeep Singh Garg),
Additional District Judge,
Bathinda/30.3.2026
(UID No.PB00295)