

2025:PHHC:037187



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

CWP-7350-2025

Date of Decision: 18.03.2025

Prem Nath Khanna

..... Petitioner

Versus

Narinder Nath Kapoor (Deceased) Through LR and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Umesh Kaushik, Advocate
for the petitioner.

Ms. Upasana Dhawan, AAG, Haryana.

HARSH BUNGER J. (ORAL)

The instant writ petition has been filed under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Mandamus for directing official respondents No.7 and 8 to take immediate action against respondents No.3 to 6 and to further stop the construction on land which is a subject matter of Civil Revision No.5896 of 2023.

1.1 A further prayer has been made for directing the official respondents to consider representations dated 31.01.2025 (Annexure P-3) and 14.02.2025 (Annexure P-4) submitted by the petitioner.

2. A perusal of the paper book would show that petitioner herein, along with his mother Kaushalya Rani, purchased about 41 Kanal of land, out of the joint land measuring 206 Kanal-3 Marla, situated at Village Dhurala, vide Sale Deed dated 17.10.1966. It appears that the said land was leased out to one Narinder Nath Kapoor. Apart from the aforesaid land, the mother of petitioner had earlier also purchased another land measuring 79 Kanal-12 Marla, situated at Village Dhurala, Tehsil Thanesar, District Kurukshetra, vide Sale Deed dated 07.01.1967, which was also leased by its previous owners to Narinder Nath Kapoor for a period of twenty years.

2.1 It transpires that upon demise of the mother of present petitioner, Narinder Nath Kapoor filed a Civil Suit No.655 of 1987 against the previous owners, namely Kewal Krishan and Rajinder Krishan, of the aforesaid suit land, seeking declaration that he is the owner in possession of the suit property. The said civil suit was decreed *ex parte* in favour of Narinder Nath Kapoor vide judgment dated 10.02.1988 passed by the then Sub Judge, Kurukshetra.

2.2 Feeling aggrieved against the aforesaid judgment dated 10.02.1988, the present petitioner along with others filed Civil Suit No.133/2002 of 1990, seeking declaration of title and joint possession of the said suit property, along with a further declaration that the aforesaid judgment dated 10.02.1988 passed in Civil Suit No.655 of 1987 is not binding upon them as Kewal Krishan and Rajinder Krishan are not the owners of the said land, anymore. Apparently, the said Civil Suit No.133/2002 of 1990, filed by the petitioner, came to be dismissed vide judgment dated 20.08.2002, passed by the learned Civil Judge, Senior Division, Kurukshetra.

2.3 Being dissatisfied with the aforesaid judgment dated 20.08.2002, petitioner herein preferred an appeal before the learned Additional District Judge, who, allowed the same vide judgment dated 31.03.2005, by holding that Narinder Nath Kapoor did not acquire any legal right to claim ownership over the suit property by pleading adverse possession.

2.4 The aforesaid judgment dated 31.03.2005, as rendered in favour of petitioner herein, was challenged by Narinder Nath Kapoor, by way of filing Regular Second Appeal No.1661 of 2005 before this Court, which was allowed vide judgment dated 20.07.2009, whereby judgment dated 31.03.2005 passed by the Additional District Judge, was set aside.

2.5 Feeling aggrieved against the aforesaid judgment dated 20.07.2009, petitioner herein challenged the same before the Hon'ble Supreme Court by way of filing SLP (C) No.2489 of 2011, which was subsequently registered as Civil Appeal No.2151 of 2016, which came to be allowed vide judgment dated 01.03.2016, whereby judgment dated 20.07.2009 passed by this Court in RSA No.1661 of 2005 was set aside and judgment dated 31.03.2005 passed by the learned Additional District Judge, was restored.

2.6 It transpires that the present petitioner filed Execution Petition No.39 of 2017 before the learned Civil Judge (Senior Division), Kurukshetra, however, the same was dismissed for non-prosecution with liberty to the petitioner to file the same again, vide order dated 25.09.2018 (Annexure P-9). It appears that another Execution Petition No.270 of 2018 was filed by the petitioner, which was withdrawn as being fully satisfied, vide order dated 05.11.2018 (Annexure P-11) passed by the learned Civil

Judge (Senior Division), Kurukshetra.

2.7 Petitioner herein claims that the aforesaid Execution Petition No.270 of 2018 is a result of fraud as the same was not filed by him and all the documents submitted in the said Execution Petition are a result of forgery and forged signatures.

2.8 It appears that petitioner herein filed another Execution Petition No.283 of 2019, wherein the judgment debtor preferred an application, stating that the same was not maintainable in view of order dated 05.11.2018 (Annexure P-11) passed in Execution Petition No.270 of 2018, which was withdrawn being fully satisfied as per compromise. The said application was allowed and the Execution Petition No.283 of 2019 was dismissed by the Executing Court vide order dated 25.08.2023.

2.9 Evidently, petitioner herein has already preferred Civil Revision No.5896 of 2023 against the aforementioned order dated 25.08.2023, before this Court., wherein the following order was passed on 05.10.2023 (Annexure P-1):-

“135. CR-5896-2023

*PREM NATH KHANNA (SINCE DECEASED) THROUGH
LRS AND OTHERS VS NARINDER NATH KAPOOR AND
ANOTHER*

Present: Mr. Umesh Kaushik, Advocate, for the petitioners.

Heard.

Notice of motion for 09.01.2024.

*In the meantime, status quo as to possession be
maintained.*

LCR be also requisitioned in the meanwhile.”

2.10 It appears that after passing of the above referred order dated 05.10.2023 by this Court, some land came to be transferred by one Satwinder Singh, who is stated to be the adopted son of Narinder Nath Kapoor, whereupon petitioner is stated to have filed a Contempt Petition

(COCP-399-2025), wherein notice of motion was issued on 28.01.2025.

2.11 Petitioner claims that he had submitted one application to the learned Collector, Kurukshetra, seeking cancellation of Sale Deed of the above referred sold land, in the light of *status quo* order passed by this Court in Civil Revision No.5896 of 2023, however, nothing has been done.

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

4. Heard.

5. Upon perusal of the paper book, it is evident that petitioner is a decree holder in respect of the suit land. In Execution Petition No.270 of 2018, order dated 05.11.2018 was passed, whereby the said Execution Petition was withdrawn being fully satisfied as per compromise. As per petitioner, Execution Petition No.270 of 2018 was not filed by him and the documents presented therein were forged. In fact, another Execution Petition No.283 of 2019 was filed by the petitioner, which was also dismissed vide order dated 25.08.2023, in view of order dated 05.11.2018 passed in previous Execution Petition bearing No.270 of 2018. Petitioner has already challenged the aforesaid order dated 25.08.2023 passed by the Executing Court in Execution Petition No.283 of 2019, by way of filing Civil Revision No.5896 of 2023 before this Court. As regards the sales made out of the suit property in question, the petitioner has also availed his remedy of filing Contempt Petition (COCP No.399 of 2025) before this Court.

5.1 The present writ petition has been filed by the petitioner, *inter alia*, seeking directions upon respondent No.7 (Tehsildar, Kurukshetra) and respondent No.8 (District Collector, Kurukshetra) to take action against

respondents No.3 to 6 and for stopping construction on the suit land.

5.2 In my considered view, the *status quo* order has already been passed by a co-ordinate Bench of this Court in Civil Revision No.5896 of 2023, filed by the petitioner; and for alleged violation of the same, petitioner has already filed Contempt Petition (COCP No.399 of 2025). Both the said petitions are stated to be pending before this Court. Once the petitioner has already availed his legal remedies, the present writ petition can only be seen as an attempt to pressurize the official respondents to take some action in the matter, which would clearly be not maintainable.

5.3 In case, petitioner is aggrieved against any Sale Deed then he shall have to avail his legal remedies in that regard, in accordance with law.

6. In view of the above, the present writ petition is dismissed.

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

18.03.2025

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No