



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

CR-2901-2025 (O&M)

Paramjeet

. . . . **Petitioner**

Vs.

Ranbir and Others

. . . . **Respondents**

Reserved on: 15.05.2025

Pronounced on: 19.05.2025

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Argued by:- Mr. Dharamvir Sharma, Senior Advocate with
Mr. Rajinder Goel, Mr. Gautam Kaile,
Mr. Ashwani K. Antil, Ms. Poonam Saroya,
Advocates for the petitioner.

DEEPAK GUPTA, J.

This revision petition under Article 227 of the Constitution of India has been filed seeking to set aside the order dated 05.02.2025 (*Annexure P-21*) passed by the learned Additional District Judge, sonapat, whereby the appeal against the trial court's order dated 19.02.2024 (*Annexure P-20*) dismissing the petitioner's objections was rejected. The petitioner also challenges the order dated 03.01.2025 (*Annexure P-22*), whereby the Executing Court—learned Additional Civil Judge (Senior Division), Kharkhoda, sonapat—issued warrants of possession in Execution No.5 of 2021. Further relief is sought for a declaration that the decree dated 22.04.2011 (*Annexure P-11*) was obtained by fraud and concealment, rendering it a nullity and non-executable in law.

2.1 A perusal of the paper-book reveals that Rati Ram son of Mange Ram, claiming ownership and possession of plot No.39/458 measuring 136 sq. yds. situated in the Abadi Deh of Village Mandori, Tehsil and District sonapat, filed a suit for possession. He claimed that the said plot was allotted to his father Mange Ram in Civil Suit No.54/1958 decided on 28.03.1960 titled '*Tek Chand etc. v. Risala etc.*' by the learned Sub-Judge 1st Class, sonapat. It was



averred that his father had laid the foundation and used the land for storing fuel etc. (*Gitwar*). The defendants were said to be owners in possession of adjoining plot No.38 measuring 633 sq. yds. This ownership was previously held in Civil Suit No.393 of 98/2000 concerning a permanent injunction over plot No.38, upheld up to this High Court in RSA N: 3891 of 2005 decided on 27.02.2006. Plaintiff Rati Ram alleged that during his temporary absence, the defendants encroached upon plot No.39/458 and included it in their adjoining plot No.38 by raising construction. Accordingly, he sought possession.

2.2 In response, the defendants (*who included present petitioner's father namely, Sardar Singh*) claimed that as per decree dated 28.03.1960, plot No.39/458 was originally allotted to Bharat Singh son of Jug Lal, while Mange Ram was allotted plot No.465/442, based on oral possession claims. It was further submitted that after Bharat Singh's death, his legal heirs sold the land to Suresh, from whom the defendant Sardar Singh purchased 17 ft. of land, which was then included in plot No.38. The defendants did not dispute the earlier litigation regarding plot No.38.

2.3 After the framing of issues and recording of evidence, the trial Court decreed the suit in favour of the plaintiff on 22.04.2011 (Annexure P-11). The appeal filed by the defendant Sardar Singh was dismissed by the first Appellate Court on 08.05.2012. RSA No.3911 of 2012 filed by defendant was dismissed by this High Court on 04.03.2020 (Annexure P-13). The review petition was dismissed on 18.05.2024. Subsequent SLPs and writ petitions before the Hon'ble Supreme Court were similarly dismissed.

2.4 During the execution of the decree, objections filed by the judgment debtor (JD), who is the predecessor-in-interest of the present petitioner, were dismissed vide order dated 19.02.2024 (*Annexure P-20*) by the Executing Court. The appeal against the dismissal of objections was also rejected vide impugned order dated 05.02.2025 (*Annexure P-21*). Warrants of possession were issued, and possession has already been delivered to the decree-holder.



3.1 Challenging the impugned orders, learned senior counsel for the petitioner argued that in the original partition decree dated 28.03.1960 in Civil Suit No.54 of 1958, plot No.39/458 measuring 136 sq. yds. was allotted to Bharat Singh, and not to Mange Ram. Reference is made to the relevant *nakal khatoni Fahrist*. It is submitted that Mange Ram died on 31.08.1973, yet an application dated 28.07.1975 was moved by one Chandagi before the Court of Senior Sub-Judge, sonapat, on a non-judicial stamp paper purchased on 22.07.1975 in the name of the deceased Mange Ram, to prepare the decree-sheet. The application did not disclose Mange Ram's death. Consequently, the decree-sheet dated 05.08.1975 falsely recorded that Mange Ram had been allotted plot No.39/458.

3.2 It is thus contended that the decree dated 05.08.1975 (Annexure P-10) was obtained by practicing fraud upon the Court by concealing the death of Mange Ram, and therefore, is a nullity in law. The courts below and the trial court failed to consider these material facts.

3.3 Reliance is placed on the judgment of the Hon'ble Supreme Court in ***S.P. Changalvaraya Naidu v. Jagannath, 1994(1) RRR 253***, where it was held that a judgment or decree obtained by fraud is null and void and can be challenged in any court, including in collateral proceedings. The petitioner has also referred to ***Ludhiana Improvement Trust & anr. v. Shaheed Bhagat Singh Coop. House Building Society Ltd., 2021(3) RCR (Civil) 599***, and ***Smt. Badami v. Bhali, 2012 (115) AIC 50***, reinforcing that concealment of vital documents and suppression of material facts amounts to fraud vitiating judicial proceedings.

4. This Court has considered submissions made by learned senior advocate at great depth and have perused the entire paper-book.

5. All the contentions, as have been raised before this Court by learned senior advocate, were duly considered initially by the first Appellate Court in regular civil appeal No.113 of 2011 against the judgment dated 22.04.2011 of the trial Court, whereby suit of the plaintiff Rati Ram was decreed and the same were rejected vide judgment dated 08.05.2012 (*Annexure P-12*).



Against that judgment, RSA No.3911 of 2012 was filed, wherein the same contentions were raised and rejected vide order of High Court dated 4.3.2020 (*Annexure P-13*).

6. It will be relevant to reproduce the contentions raised on behalf of the petitioner herein and the findings as returned by this Court. These are as under:

“The appellant-defendants filed the written statement raising preliminary objections regarding maintainability, locus standi, cause of action, estoppel, limitation, concealment of true and material facts, non-joinder and mis-joinder of parties and suit being undervalued. It is averred that on partition of Abadi deh of the village on 28.3.1960, plot No. 39/458 measuring 136 square yards was allotted to Bharat Singh and in place of the said plot, the plaintiff was allotted plot No. 465/442 in an objection petition filed therein on the basis of old possession of Bharat Singh over plot No.39/458. The legal heirs of Bharat Singh sold it to Suresh son of Khazan Singh vide registered sale deed. From Suresh, Sardar Singh purchased 17 feet of the said plot and included it in plot bearing No. 38. They denied the plaintiff to be owner or in possession of plot No. 39/458 with the averments that its dimensions have not been correctly described.

The trial court framed the issues, reproduced in para 5 of the judgment of said court. The parties adduced evidence, reference whereof has been made in paras 6 and 7 of the judgment of said court. As has been noticed hereinbefore, the trial court decreed the suit by accepting plea of Rati Ram (since deceased) represented through his legal representatives that plot No. 39/458 measuring 136 square yards is the ownership of Rati Ram allotted to Sh. Mange Ram son of Ranpat, his father vide decree dated 28.3.1960 in civil suit No. 54 and the plaintiff is entitle for possession of suit plot with a direction to the defendants including the appellant to remove malba from the plot in question and deliver its vacant possession to the respondent-plaintiff.

The appeal preferred by unsuccessful defendant-appellant was dismissed as the appellate court affirmed findings of the trial court without variance.

Counsel for the appellant would argue that in civil suit No. 54 of 1958, objections were filed against report of the local commission appointed by the Court with regard to allotment of plot No. 39/458 measuring 136 square yards which was in possession of Bharat Sing son of Jug Lal with a request to allot plot No.



465/442 which is stated to be in possession of the objector in which he had planted trees and raised kurdi and batora etc. For this purpose, reference has been made to document marked as Ex. D9. It is further argued that in Khatauni Fahrist Ex. D16, plot No. 39/458 is shown to be allotted to Bharat Singh son of Jug Lal. It is argued with vehemence that conjoint reading of documents Ex. D9 and D16 leads to an inescapable conclusion that plot No. 39/458 was allotted to Sh. Bharat Singh, therefore, the respondent-plaintiff has wrongly claimed his ownership of the aforesaid plot and entitlement to recover its possession from the defendants including the appellant. It is further argued that courts have committed a gross error rather perversity by upholding plea of Rati Ram that he is owner in possession of the plot in dispute and entitle to recover its possession from the appellant. According to counsel, plot No. 39/458 measuring 136 square yards was sold by successors in interest of Bharat Singh in favour of Suresh vide registered sale deed proved on record and said Suresh sold 17 feet out of the disputed plot in favour of the appellant and the same has been included in plot No. 38 situated on Northern side of the plot in dispute.

Counsel for the respondent-plaintiff, on the contrary, has supported concurrent findings recorded by the courts with the submission that Mange Ram son of Ranpat was allotted six plots total measuring 990 square yards in the decree of partition dated 28.3.1960 and the decree sheet was prepared on 5.8.1975. It is further argued that the decree of partition qua abadi deh of village Mandori is not modified or reversed, thus, the appellant cannot be heard to say that disputed plot was allotted to Bharat Singh nor can he assert his claim in respect of 17 feet of area of disputed plot on the basis of sale deed purported to be executed by Suresh, stated to be purchaser of this plot from successors in interest of Bharat Singh. It is further argued that in a suit for permanent injunction filed by the defendants including the appellant against Rati Ram, it was decided that defendants are owners of plot No. 38 measuring 633 square yards to which Rati Ram did not claim any right, title or interest whereas plot No. 39/458 measuring 136 square yards was held to be ownership of Rati Ram son of Mange Ram. It is further argued that findings in the suit for injunction have attained finality up to the High Court.

I have heard counsel for the parties, perused the paper book and records of the present suit as well as civil suit No. 54 of 1958 decreed on 28.3.1960.

Counsel for the appellant has failed to point out any materials available on the original records of Civil Suit No. 54 of 1958 to prove that plot No. 39/458 was allotted to Bharat Singh son of Jug Lal. On the contrary, as per the decree prepared



by the court in August 1975, the disputed plot was allotted to Sh. Mange Ram son of Ranpat who was allotted five more plots including plot No. 465 measuring 442 square yards. As has rightly been held by the Court in Appeal, the decree passed in the previous litigation in respect of allotment of plot No. 39/458 to Sh. Mange Ram has not been reversed or set aside, therefore, the appellant cannot derive any advantage to his contentions from the documents marked as Exs. D9 and D-16. Counsel for the appellant read document Ex. D9 in vernacular as well as its translation in English in document mark 'C'. In mark 'C', there is no reference as to who raised objections against the report of the commissioner. Similarly, perusal of document Ex. D9 in vernacular does not make it clear that objections were raised by Mange Ram. On the contrary, in the last line of the document, name of person is mentioned as Mauji son of Pehlad Jat resident of village Mandori and date is mentioned as 18.12.1959. In the margin of extreme right, it is stated 'angutha Mange Ram'. There is no other document produced on record that objections noticed in document mark D9 were ever accepted by the court in respect of allotment of plot Nos. 39/458 and 465/442. On the other hand, as per the decree passed in the earlier litigation, both the aforesaid plots were allotted in favour of Mange Ram father of Rati Ram. Even document Ex. D-16 Khatauni Fahrist does not bear any date to show that it was prepared subsequent to decree dated 28.3.1960 was passed on the basis of preliminary decree dated 11.7.1959 and report of Sh. Ramjivan, Advocate, appointed as commissioner to suggest the mode of partition. In this view of the matter, I do not find any reason to interfere in consistent findings recorded by the courts that Mange Ram was allotted plot No. 39/458 measuring 136 square yards and Rati Ram son of Mange Ram is entitle to possession thereof.”

7. It is, thus, clear that all the contentions as raised in present petition were duly considered by this court and then the appeal filed by Sardar Singh i.e. the predecessor-in-interest of the present petitioner was dismissed.

8. Thereafter, Review petition bearing RA-RS-8-2021 was filed by the petitioner against the aforesaid judgment dated 04.03.2020, wherein also the similar contentions were raised and that said review petition was dismissed by a co-ordinate Bench of this Court on 18.05.2024 vide *Annexure P-14*.

9. Still not satisfied, *SLP (Civil) 3725 of 2024 titled “Santra and others versus Ranbir and others”* was filed against order dated 4.3.2020 passed in RSA



N: 3911 of 2012, which was dismissed by Hon'ble Supreme Court on 09.09.2024 vide *Annexure P-15*.

10. Review petition (civil) No.2029 of 2024 was dismissed by Hon'ble Supreme Court on 06.11.2024 vide *Annexure P-16*.

11. Not stopping here, curative petition (Civil) No.10/2025 was filed, which was also dismissed by Hon'ble Supreme Court 18.03.2025 vide *Annexure P-17*.

12. While the petitioner was exhausting all the above remedies, the execution petition was filed by the decree-holder, wherein objections were filed by the petitioner- JD herein, which were filed by the Executing Court on 19.02.2024 i.e. one of the impugned order (*Annexure P-20*), against which appeal was filed and the Appellate Court dismissed the same on 05.02.2025 vide *Annexure P-21*.

13. It will be relevant to reproduce the observations made by the Appellate Court in this regard, which read as under:

“It is not in dispute between the parties that the RSA filed by the JDs/objectors has already been dismissed. It is not in dispute between the parties that the alleged review petition has also been dismissed by the Hon'ble High Court vide its order dated 18.05.2024. It is also not in dispute between the parties that SLP filed by the JDs/objectors has also been dismissed by the Hon'ble Supreme Court of India. Meaning thereby, it is not in dispute that the judgment and decree dated 22.04.2011 has attained finality. Admittedly, the judgment and decree dated 22.04.2011 has already been executed and in terms thereof, possession has been delivered.”

14. It has not been disputed by learned counsel for the petitioner that pursuant to the warrant of possession issued by the Executing Court on 03.01.2025 (*Annexure P-22*), the decree has already been executed and possession has been delivered to the decree-holder, as has also been observed by the Appellate Court in the order dated 05.02.2025 reproduced above.



15. It is thus clear that all the contentions as have been raised in this petition were duly considered by the Courts at every level. Even the appeal and then the review petition, then the SLP before Hon'ble Supreme Court, the review thereof and the curative etc. before Hon'ble Supreme Court have already been dismissed.

16. In addition to all above, it is also not in dispute that Sardar Singh i.e. father of the petitioner had come into picture much later. Contention is that disputed plot No.39/458 had been allotted in 1960 to Bharat Singh son of Jug Lal and the decree in 1975 was got prepared wrongly by showing the allotment of this plot to Mange Ram. There is nothing on record to suggest that Bharat Pal, or later on, the successors-in-interest of Bharat Pal ever challenged the decree passed in 1975. As per the own stand of the petitioner i.e. defendant before the trial Court concerned, the legal heirs of Bharat had sold the property to one Suresh son of Khajan Singh about 8-10 months earlier by way of registered sale deed and from said Suresh, the defendants had purchased 17 ft. of the said plot. The suit was filed in July, 2006 which means that petitioner had come in picture at the most in 2005. All the wisdom appears to have dawned on the petitioner's father after purchasing 17 sq. yd. of plot N: 39/458 in 2005-06 so as to challenge the decree passed in 1975 based on judgment dated 28.03.1960, which was neither challenged by Bharat nor his legal heirs nor the vendees from legal heirs of Bharat.

17. Looking into all the aforesaid facts and circumstances, this Court finds the present petition to be completely vexatious and a gross misuse of the process of law and as such, the same is hereby dismissed with special cost of ₹50,000/- to be deposited in District Legal Services Authority, sonapat.

(DEEPAK GUPTA)
JUDGE

19.05.2025

Neetika Tuteja

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No