



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

**RSA-728-1990 (O&M)**  
**Date of decision :18.02.2025**

NIRMAL SINGH AND OTHERS

...Appellants

Versus

JAGIR SINGH AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Naresh Jain, Advocate  
for the appellants.

Mr. Shiv Kumar, Advocate  
for the respondents.

**HARSH BUNGER, J.**

For convenience, parties herein are being addressed as per their status in the original suit.

2. This is the defendants' second appeal, praying for setting aside of the judgment and decree dated 21.01.1988 passed by the learned Sub Judge Ist Class, Muktsar, decreeing the suit of plaintiffs/respondents No.1 to 3 (legal heirs of original plaintiff-Jagir Singh son of Jagat Singh) for possession of land measuring *115 kanals – 5½ marlas* with a further declaration that the sales of the land measuring *114 kanals–5 marlas* executed by Smt. Nasib Kaur (defendant No.1 in the suit) in favour of

defendants No.2 to 6 (present appellants) are illegal, void, ineffective, inoperative and not binding on the rights of the plaintiffs.

A further prayer has been made for setting aside the judgment and decree dated 24.11.1989 passed by the learned Additional District Judge, Faridkot, whereby, two appeals preferred against judgment and decree dated 21.01.1988 i.e. one appeal by Nasib Kaur (defendant No.1 in the suit) and another by present appellants (defendants No.2 to 6, in the suit) was dismissed.

3. Briefly, Jagir Singh (predecessor of present respondents No.1 to 3) filed a suit for possession of land measuring *115 kanals – 5½ marlas* with a further declaration that the sales of the land measuring *114 kanals–5 marlas* executed by Smt. Nasib Kaur (defendant No.1 in the suit) in favour of defendants No.2 to 6 (present appellants) are illegal, void, ineffective, inoperative and not binding on the rights of the plaintiffs.

3.1 During the pendency of the suit, Jagir Singh expired and present respondents No.1 to 3 were brought on record as the legal heirs of Jagir Singh vide order dated 12.09.1987 passed by the learned trial Court. Thereafter, an amended plaint was filed.

3.2 The claim in the suit was that Jagir Singh was owner in possession of land measuring *115 kanals – 5½ marlas* and defendant No.1- Nasib Kaur while acting as General Attorney of Jagir Singh sold the land measuring *114 kanals–5 marlas* by way of five separate sale deeds in favour of defendants No.2 to 6 (present appellants).

3.3 It was the pleaded case in the plaint that Jagir Singh never appointed Smt. Nasib Kaur as his general attorney. In fact, Nasib Kaur brought Jagir Singh to Muktsar on the pretext that some damages of the crops were to be taken and his thumb impressions were obtained but he

never executed the alleged power of attorney, which was a result of mis-representation and fraud made upon Jagir Singh. It was further pleaded that the sale deeds were executed by Nasib Kaur in favour of present appellants without any consideration and without their being any legal necessity.

4. The afore-said claim in the suit was contested by Smt. Nasib Kaur (defendant No.1, in the suit) and also by the present appellants (defendants No.2 to 6, in the suit) by filing their separate written statements.

4.1 In the written statement filed by Nasib Kaur; apart from raising certain preliminary objections, it was stated that Nasib Kaur was appointed as the General Attorney only for the purpose of execution and registration of sale deed, in pursuance of an earlier agreement to sell dated 10.04.1985. It was also stated that Jagir Singh had received the whole consideration in respect of the sale deeds and that the suit was not *bona fide*. It was categorically stated that the Power of Attorney executed by Jagir Singh in favour of Nasib Kaur was got registered from the Office of Sub Registrar and the contents thereof were read out to Jagir Singh and he admitted the same to be correct. It was stated that the sales deed were executed with the consent of Jagir Singh; accordingly, prayer for dismissal of the suit was made.

4.2 On the other hand, the present appellants controverted the pleadings made in the suit, by *inter alia*, submitting that Nasib Kaur was competent to execute and register the sale deeds in their favour and that they are the *bona fide* purchasers for value, without notice. Accordingly, prayer for dismissal of the suit was made.

4.3 Thereafter, the replication was filed, wherein, the pleas taken in the written statements were denied and those of the plaintiff were reiterated.

5. From the pleadings of the parties, the following issues were framed :-

- “1. Whether the plaintiff is owner of the land in dispute? OPP
2. Whether the sales in dispute in favour of defendants No.2 to 6 are null and void? OPP
3. Whether the suit is not maintainable in the present form? OPD
4. Whether the suit is bad for multifariousness? OPD
5. Whether Nasib Kaur was the duly appointed attorney of the plaintiff? OPD
6. Whether defendants No.2 to 6 are bonafide purchaser without notice for consideration? OPD
7. Whether the plaintiff is barred by his act and conduct? OPD
8. Whether the suit has not been properly valued for the purposes of court fee and jurisdiction? OPD
9. If issue No.5 is not proved, whether the power of attorney dated 30.8.85 is the result of fraud? OPP
- 9(A) Whether the sales in question made by defendant No. in favour of the defendants No.2 to 6 are without consideration? OPD (Objected to)
10. Relief.”

6. The parties to the suit led their respective evidence in support of their claims.

7. The learned trial Court, upon considering the facts, pleadings as well as evidence available on record, decreed the suit vide judgment and decree dated 21.01.1988.

7.1 The afore-said judgment and decree dated 21.01.1988 was challenged by Nasib Kaur, as well as present appellants by filing their separate appeals. However, both the afore-said appeals came to be dismissed by the lower Appellate Court, vide common judgment and decree dated 24.11.1989. Hence, the present Regular Second Appeal.

8. Heard.

9. In the present case, the suit was filed by the plaintiffs on the plea that the sale deeds executed by Nasib Kaur, while acting as the 'General Attorney' of Jagir Singh, in favour of present appellants (defendants No.2 to 6, in the suit) were illegal, null and void as Jagir Singh, never appointed Nasib Kaur as his attorney and also that the sale deeds in question, were without consideration and without legal necessity.

10. On the other hand, the stand of the defendants was that Nasib Kaur was the attorney of Jagir Singh and therefore, competent to execute the sale deed.

11. Considering the rival contentions of the parties, the learned trial Court framed issue No.5 to the effect as to whether Nasib Kaur, was the duly appointed attorney of the plaintiff. Likewise, another issue No.9 was framed to the effect that if issue No.5 is not proved, whether the Power of Attorney dated 30.08.1985 is a result of fraud. Issue no.9(A) was also framed as to whether the sale deeds executed by Nasib Kaur in favour of the present appellants were without consideration.

12. Learned trial Court, upon appreciation of evidence available on record, returned the findings that the 'Power of Attorney' dated 30.08.1985 (Ex. D-7), is a result of fraud and accordingly, issue No.9 was held in favour of the plaintiffs and issue No.5 was held against defendant

No.1-Nasib Kaur. Consequently, the learned trial Court, vide judgment and decree dated 21.01.1988 decreed the suit of the plaintiff.

13. The learned lower Appellate Court, while affirming the findings returned by the learned trial Court, especially on Issues No.5, 9 and 9(A), has returned the following observations/findings :-

(a) *As regards the purchase of stamp paper for execution of the power of attorney, it has been observed that there is no thumb mark of Jagir Singh, on the endorsement of the stamp vendor about the sale of this stamp paper to Jagir Singh, for executing a Power of Attorney.*

(b) *As regards the scribe of the Power of Attorney, it has been observed that the scribe is a man of doubtful credentials as there was already a case FIR registered against him under Sections 420, 467 and 468 of the IPC and also that it is stated in his cross-examination that the endorsement made by Sh. Balwant Singh Gill, Advocate on the document (Exhibit D-7) at Exhibit D-7/X was not made in his presence and that this advocate was not even present at the time of the scribing of this document.*

(c) *As regards the discrepant statements made by the witnesses regarding the presence of persons at the time of execution of Power of Attorney, it has been observed that Gurcharan Singh, DW12 states that only he, Jagir Singh and Balbir Singh were present when the Power of Attorney was written but Balbir Singh, states that the Advocate Sh. Gill was also present at that time.*

*On the other hand, Inder Mohan, Deed Writer and Gurcharan Singh stated that Sh. Gill, Advocate was not present when this document was scribed. In contrast to this, it has been observed that Sh. Gill stated that he did not appear before the Sub Registrar and obviously, he did not make any identification before the Sub Registrar; therefore, it has been held that if he was not present even when this document was scribed and he did not appear before the Sub Registrar then it*

*is clear that Sh. Gill, Advocate made the endorsement of identification on this document afterwards.*

*(d) As regards the suspicious circumstances, surrounding the execution of Power of Attorney (Ex. D-7), it has been observed that Balbir Singh is the real brother of Nasib Kaur and Gurcharan Singh also belongs to his village and was brought by Balbir Singh for this purpose. It is further observed that no person of the village of Jagir Singh has attested this document, consequently, the document (Ex. D-7) has been brought into existence by Nasib Kaur, in connivance with her brother and others and no person of confidence of Jagir Singh was associated in the execution of this document.*

*(e) As regards the passing of sale consideration is concerned, the learned lower Appellate Court has referred to the statements of one Kikkar Singh (DW-8) and Bakhtawar Singh (DW-7), who stated that Jagir Singh had thumb marked the receipt in their presence; however, Bakhtawar Singh (DW-7) stated that no money was paid at the time Jagir Singh, thumb marked this receipt but the money was paid to him at his village on the same day i.e. on the date the receipt dated 12.08.1985/12.09.1985, was executed. Whereas, Nasib Kaur stated that the sale price was paid to her by the vendees a day before the execution of the sale deeds and that she had paid the money to Jagir Singh, on the same day (in the village) on which, the payment was made to her. That apart, one of the vendees namely, Nirmal Singh (DW-11) stated that he had made the payment of the sale consideration about two days before the sale deed. The sale deeds are stated to be of dated 02.09.1985 and 03.09.1985. It has been concluded by the lower Appellate Court that according to Nirmal Singh, the payment was made either on 31.08.1985 or 01.09.1985 and the Power of Attorney is of 30.08.1985. Further, according to Nasib Kaur, she had made payment to Jagir Singh, on the same day on which the payment was received, whereas, according to Bakhtawar Singh (DW-7), the money was paid in his presence to Jagir Singh, on the date of the receipt*

*(Mark 'C'), which is dated 12.08.1985/12.09.1985. It is held that all the discrepant variants show that no payment was made in this case.*

*(f) As regards the place of payment is concerned, it has been observed that according to Nirmal Singh (DW-11), the payment was made to Nasib Kaur at village Rupana but Nasib Kaur, herself and Kikkar Singh (DW-8) and Bakhtawar Singh (DW-7) stated that the payment was made in village Palamgarh; which also shows that no such payment was made either to Nasib Kaur or by her to Jagir Singh.*

*(g) It has been held that no part of the sale price in respect of any of the sale deeds (Ex. D-1 to Ex. D-5) was paid before the Sub-Registrar.*

*(h) As regards the plea of the appellants that the sale deeds were executed in pursuance of the agreement (Ex. D-8), it has been held by the Courts below that there is no reference of the said agreement in any of the sale deeds and moreover, the rates mentioned in the sale deeds vary from those mentioned in the agreement (Ex. D-8). There is also no mention in the sale deeds about the adjustment of the earnest money mentioned in the agreement (Ex. D-8). It is, therefore, held that the contention of the appellants that the Power of Attorney was executed to give effect to the agreement (Ex. D-8), is not tenable.*

*(i) As regards the necessity to execute the sale deed by Jagir Singh, it has been held that in case, Jagir Singh wanted to sell his land immediately then instead of giving the Power of Attorney to Nasib Kaur, he could have executed the sale deed himself. It has been observed that if he could come to the Court to execute the Power of Attorney then he could have come there for the execution of sale deed also.*

*(j) Another circumstance mentioned by the lower Appellate Court is that the total sale price mentioned in all the five sale deeds is Rs.180462.50/-, whereas, the receipt is for Rs.201500/- and on that basis, it has been concluded that the receipt is also fictitious.*

(k) *As regards the undue influence/cheating on the part of Nasib Kaur, the lower Appellate Court has observed as under :-*

*“27. Nasib Kaur was brought up by Jagir Singh as his daughter. Actually, she was his niece. It means that he had full faith and confidence in her. It appears that when his wife died in the last week of August 1985, Jagir Singh was in grief and in a perturbed mind and Nasib Kaur, who was in a position to exercise influence over the mind of Jagir Singh, availed of that opportunity and used her influence unduly over Jagir Singh and obtained his thumb marks on these documents to deprive him of his property. He was in old age at that time and this circumstance also shows that he was in a position of being influenced unduly by Nasib Kaur. Therefore, there is absolutely no doubt that these documents have come into existence with the exercise of undue influence of Nasib Kaur over Jagir Singh.*

*28. The haste with which the sale deeds were executed and the fact that no sale consideration was paid before the Sub Registrar and the further fact that all these sale deeds were executed in favour of near relatives of Nasib Kaur show that Nasib Kaur has cheated Jagir Singh and he did not execute any power of attorney voluntarily in his favour. In this connection, reference is made to Nasib Kaur’s cross-examination where she has said that some of the vendees are her brothers and the others are her nephews.”*

14. Learned counsel for the appellants has failed to dislodge the findings returned by the lower Appellate Court, by referring to any material whatsoever. The findings of the first Appellate Court, are based upon appreciation of facts/pleadings as well as the evidence on record and I see no illegality or perversity in the findings returned by the lower Appellate Court. Furthermore, no question of law, much less a substantial question of

law, is involved herein, so as to exercise appellate jurisdiction under Section 100 of Civil Procedure Code, 1908.

15. In view of the above, the present appeal is dismissed, being bereft of any merit. Resultantly, the impugned judgment and decree dated 21.01.1988 passed by the learned Sub Judge Ist Class, Muktsar, which has been further affirmed by the lower Appellate Court, vide judgment and decree dated 24.11.1989, are hereby maintained.

16. All pending application/s, if any, shall also stand closed.

**February 18, 2025**  
gurpreet

**(HARSH BUNGER)**  
**JUDGE**

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No