



2026:AHC:124878

HIGH COURT OF JUDICATURE AT ALLAHABAD

MATTERS UNDER ARTICLE 227 No. - 8158 of 2026

Nainci And Another

.....Petitioner(s)

Versus

Dheer Singh And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Akhilesh Chandra Shukla
Counsel for Respondent(s)	:	Avadh Pratap Singh Shishodia

Court No. - 38

HON'BLE KSHITIJ SHAILENDRA, J.

1. Heard Shri Akhilesh Chandra Shukla, learned counsel for the petitioners and Shri Avadh Pratap Singh Shishodia along with Shri Rahul Kumar Tyagi, learned counsel for the respondent no. 1.

2. The petitioners are plaintiffs in a suit for cancellation of sale deed and injunction. The trial court allowed the injunction application and restrained the defendants from interfering in the possession of the plaintiffs over the property forming subject matter of suit. The order was assailed by the respondent no. 1-Dheer Singh by filing Misc. Civil Appeal No. 9 of 2026, which has been allowed in part by the District Judge, Baghpat by order dated 25.03.2026 and the injunction order has been set aside, however, the parties have been directed to maintain status quo over the property in dispute.

3. Learned counsel for the petitioners has made vehement submissions that the property belonged to one Gurmeet, who was minor and there being report of Lekhpal and order passed by the Tehsildar whereby grand father of Gurmeet was appointed as a guardian but the property was sold by father of Gurmeet, namely, Narendra in favour of respondent no. 1 and, therefore, the sale was invalid. Further submission has been made that there was no exchange of sale consideration inter se parties to the sale deed and for this reason also, the sale deed is liable to be cancelled.

4. As regards the plea of injunction, submission has been made that the order impugned is simply based upon the proceedings under Section 145

CrPC and the appellate court has erroneously read the plaint indicating that the suit has been filed only for permanent injunction and not for declaration of ownership. It is further submitted that though the order of status quo has been passed, since the respondent no. 1 never came in possession over the property, under the garb of order of status quo, he will take possession causing irreparable harm to the petitioners, who are ladies. Various documents have been referred to during the course of submissions.

5. Per contra, learned counsel for the respondent no. 1 submits that the very frame of the suit is defective at least after the death of Narendra Singh and Gurmeet Singh, inasmuch as the present petitioners being married daughters of Narendra Singh, property would not revert back to them after death of Narendra Singh and, therefore, they have no claim. It is further submitted that Lekhpal and Tehsildar have no power/competence to make a declaration regarding guardianship of any person and, even otherwise, an order dated 10.01.2018 passed by the Tehsildar was endorsed on Khatauni which shows that sale was restrained by Tehsildar till Gurmeet attains majority. It is, therefore, contended that since the disputed sale deed was executed on 04.10.2017, at least at that time there was no restraint order, within or without jurisdiction, which could operate against the sale.

6. It is further submitted that the matter arising out of mutation proceedings is pending before the Board of Revenue and after making thorough analysis of the material available on record, the appellate court has converted the order of absolute injunction into an order of status quo, which would cause no prejudice to either of the parties, rather the same would protect and preserve the property in dispute.

7. It is further submitted that Narendra being natural guardian of the plaintiff Gurmeet, the declaration of guardianship is an irrelevant aspect and the natural guardian can always transfer the property even in absence of declaration qua guardianship. Reliance has been placed upon a judgment of this Court in **Doli Vs. Shakuntla Devi: 2026 SCC OnLine All 1156**.

8. I have considered the submissions made and perused the material available on record.

9. The nature of dispute raised rests not only on execution of sale deed but also devolution of rights upon the parties on account of deaths of two persons, namely, Gurmeet and his father Narendra. The petitioners are daughters of late Narendra Singh and the property in dispute being agricultural land, it is always a determinable question during the pendency of the suit considering the timing of deaths of two persons as to whether any right would flow in favour of the petitioners being married daughters. Apart from this, as far as the claim for injunction is concerned, admittedly, the dispute qua mutation entries is pending before the Board of Revenue and as to what orders have been passed by the Board, is not before this Court.

10. In so far as the contention regarding reading of plaint is concerned, though in para-19 of the order, it was indicated by the appellate court that the suit has been filed for the relief of injunction, in para-20 of the order challenge to the sale deed has been indicated and the appellate court has analyzed the matter from all possible angles, i.e. the plea based upon actual and physical possession, effect of proceedings under Section 145 CrPC which are always subject to the suit proceedings, the matters pending before the Board of Revenue, the nature of claim for injunction as well as cancellation of sale deed vis-a-vis reports qua guardianship.

11. Based upon the aforesaid analysis and recording a finding that in case the property is not preserved pending suit, the same would cause injury to one or the other party, the appeal has been allowed in part.

12. In the opinion of the Court, considering the nature of dispute, at this stage, where no expression on merits of the claim for cancellation of sale deed can be made, if the appellate court has directed the parties to maintain status quo denying absolute relief of injunction to the plaintiffs which was granted by the trial court, this Court is not inclined to interfere with the order, otherwise various other complications would arise.

13. Without expressing any opinion on any other aspect of the matter and leaving all the contentions open to be raised before the trial court, the

petition is **disposed of** with a direction that the trial court to decide the suit finally by fixing short dates preferably on fortnight basis and in accordance with law **by 31.03.2027**, subject to co-operation by members of the bar and parties.

(Kshitij Shailendra,J.)

June 3, 2026

AKShukla/-