

# Opening Sheet For Revenue Appeals

IN THE COURT OF THE  
 ...Deputy Commissioner Cum Collector SBS Nagar

Appellate side		Revenue Case No.
District	Date of filling Pension	Whether received form Appellant in person, or by pleader of or Agent
S.B.S.Nagar	08/06/2010	Through Sh. Daljit Singh Advocate



- Versus**
- Balwinder Kaur Wd/o Pargat Singh S/o Sohan Singh R/o village Kariha, Tehsil Nawanshahr Distt. S.B.S.Nagar presently residing at 84-46-162<sup>nd</sup> st Jamaica NY 11432 USA through her attorney Malkeet Singh S/o Shankar Singh R/o village Sarhali Distt. Jalandhar
  - Rajwant Kaur D/o Late Pargat Singh W/o Hardev Singh R/o 84-46-162<sup>nd</sup> st Jamaica NY 11432 USA through her attorney Malkeet Singh S/o Shankar Singh R/o village Sarhali, Distt. Jalandhar
  - Charanjit Kaur D/o Late Pargat Singh W/o Anrajit Singh R/o 84-46-162<sup>nd</sup> st Jamaica NY 11432 USA through her attorney Malkeet Singh S/o Shankar Singh R/o village Sarhali, Distt. Jalandhar
- Appellants...

V/S

Harjinder Singh S/o Late Pargat Singh R/o village Kariha, Tehsil Nawanshahr Distt. S.B.S.Nagar presently residing of 162-02-86<sup>th</sup> Avenue, Jamaica NY USA through his attorney Manjit Singh S/o Parduman Singh R/o VPO Killa Raipur, Patti Karam Parkash, Distt. Ludhiana.

Respondent...

**Appeal form the order of**

SDM.Cum.AC.Ist.Grade.Nawanshahr.. Dated ..... Day of May 20... Day of  
 in mutation proceedings regarding estate of Pargat Singh deceased S/o Sohan Singh  
 R/o village Kriha, Tehsil Nawanshahr Distt. S.B.S.Nagar  
 aim.....

.....To set aside order under appeal and to vacate mutation of the estate  
 of Pargat Singh deceased S/o Sohan Singh in the natural course of succession.  
**grounds of appeal (translated)** :

Appellant  
 [Signature]  
 Adv

[Handwritten signature]

Grounds of Appeal

Sir,

The appellant respectfully submits as under: -

*Leads -  
Case may be put up for  
hearing. During  
of appeal - order  
of lower court  
be stayed*

1. that the order under appeal is based on conjectures and surmises and is against law and facts on the file.

that the lower Court has failed to properly and minutely evaluate the evidence available on file which has resulted in miscarriage of justice.

3. that the lower Court failed to take notice of the fact that although Harjinder Singh son of deceased Pargat Singh, alleged beneficiary of the alleged Will dated 19-04-2006 has claimed succession to the estate of deceased Pargat Singh but he has failed to produce the original Will on record. Since he has relied upon secondary evidence to prove the Will, the matter can only be gone into by the Civil Court, where as per law-section 65 of the Indian Evidence Act, certain pre-conditions are to be fulfilled and satisfied such as existence and loss of the document before secondary evidence can be led which cannot be gone into a summary trial such as the mutation proceedings. Therefore the mutation in such cases need to be sanctioned only on the basis of natural succession basis and the intricate question of law left to be decided by the Civil Court.

*15/6  
de  
D/S Ngr*

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15/6/10*

*Handwritten notes in Gurmukhi script*

4. that the lower Court also failed to take notice of the fact that the witnesses examined by the alleged beneficiary do not inspire confidence. Sukhdev Chander the alleged Deed Writer, under stress of cross examination, has admitted that he has not bothered to obtain/collect any copy of the earlier Will dated 26-03-2002 nor he obtained any identification proof of the alleged testator. He has also said that he was not certain about the mental faculties of the alleged testator. The

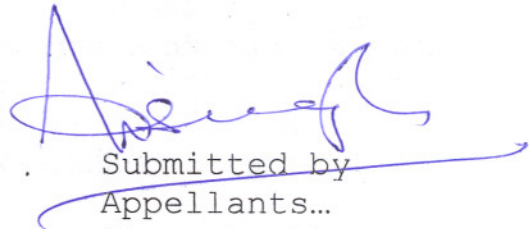
other alleged attesting witness Hans Raj Nambardar has candidly admitted that Pargat Singh had come from USA in the year 2006 alongwith his wife and that both of them lived together throughout during their stay in India. Moreover he has specifically stated that the deed writer had firstly drafted the Will on a paper, then entered it in his register and then prepared it on a pucca paper meaning thereby the original document has not seen the light of the day and the attested copy of the Will produced on record is copy of the document which was subsequently prepared by the deed writer. This in itself is a suspicious circumstance and therefore a valid ground to ignore the alleged Will.

5. that all important of all, the lower Court failed to take notice of the fact that the alleged Will deprives the wife of the deceased of any right and/or maintenance to her. No sane person would deprive his wife to her right of maintenance having lived together for the whole life. Rather the reverse is the rule where the husbands are more concerned about the well being and maintenance of their spouses after them and make specific provisions for them. In the alleged Will there is only mention of "my wife Balwinder Kaur is alive. A lot of money is deposited there for her maintenance". There is no mention of any details of the alleged deposits or the source of the alleged deposits. As such this cannot be taken as last free Will/wish of late Pargat Singh. This very fact where in the alleged Will ignores the right of the wife to maintenance is a suspicious circumstances to doubt the genuineness of the Will.
6. that the lower Court also failed to take notice of the fact that the alleged beneficiary has preferred not to appear in the witness box lest the truth about the family affairs comes out. He

has preferred to appear through his attorney who does not and cannot be expected to know the real happenings in the family of deceased Pargat Singh. This again is a suspicious circumstance against the alleged beneficiary of the alleged Will.

All the above omissions by the lower Court have misled the lower Court to a wrong conclusion to uphold the Will.


In view of the facts stated above the alleged Will is surrounded by suspicious circumstances and it be ignored and order of the lower Court set-aside and mutation annulled, in the interest of justice.



Submitted by  
Appellants...

through attorney  
Malkeet Singh  
S/o Shankar Singh  
R/o Vill. Sarhali  
Distt. Jalandhar

Date: 08-06-2010



Through Counsel  
**SH. DALJIT SINGH**  
**SH. AMANDEEP SINGH**  
**ADVOCATES**  
**DISTT. COURTS**  
**S.B.S. NAGAR**

