

For Uploading on Website

**COURT NOTICE
(U/o 5 Rule 20 CPC)**

**IN THE COURT OF Dr. Ram Niwas Bharati
District and Sessions Judge Sirsa**

**Next Date, Purpose of case, Orders and Judgments as well as other
case information is available on <http://ecourts.gov.in>**

PAT VINCENT BARRETI

Vs.

State of Haryana

CNR No. HRSI01-005019-2017

Next Date:- 26-02-2019

PUBLICATION ISSUED TO RESPONDENTS:

7(ii) Natho

7(iii) Murti daughters of Sh. Hazura Singh R/o Village Dabwali District Sirsa.

8. Rajesh Kumar son of Sh. Laxman Dass R/o Near St. Xavior School, 581 Model Town Bathinda, Punjab.

9. Madan Lal son of Sh. Kaur Singh R/o Laxman Dass Monga Wali Gali Mandi Dabwali District sirsa.

12. Aditya Kumar son of Sh. Sher Singh

13. Bimla Devi wife of Sh. Bhim Raj

14. Chiman Lal son of Sh. Hemraj all R/o Village Mandi Dabwali District Sirsa

15. Anant Kumar son of Sh. Mani Ram R/o VPO Kishanpura, Tehsil Sangaria District Hanumangarh, Raj.

To,

The Manager

Dainik Chetna, Bhiwani.

Whereas it has been proved to the satisfaction of the Court that the defendant(s)/respondent(s) above named cannot be served in the ordinary way of service. Hence, this proclamation **under order 5 Rule 20 CPC** is hereby issued against him/them and should appear personally or through their counsel on **26-02-2019 at 10:00 a.m.**

Take notice that, in default of his/their appearance on the day before mentioned, the above said case will be heard and determined in his/their absence according to law.

Given under my hand and the seal of the Court, this **23-01-2019**.



**District and Sessions Judge
Sirsa**

IN THE COURT OF HON'BLE DISTRICT JUDGE, SIRSA.

CIVIL APPEAL NO. _____ OF 2017

Original Date of Date of Date of Filing
Suit No. Institution. Decision. of the Appeal.

Exe. No. 49 of 2015 02-07-2015 18-08-2017 22-09-2017

Value of Suit Value of appeal Court Fee Stamp
for the purposes for the purposes affixed on the
of court fee and of court fee and appeal.
Jurisdiction. Jurisdiction.

Rs.200/- Rs.200/- Rs. 25/-

Pat Vincent Barreto aged about 53 years, son of Shri R. Barreto son of C. Barreto, resident of Village Mandi Dabwali, Tehsil Dabwali and District Sirsa.

....Appellant/Plaintiff/Decree Holder.

Versus

1. The State of Haryana through Collector, Sirsa District Sirsa.
2. The Collector, Sirsa Tehsil and District Sirsa.
3. S.D.O. (Civil) Dabwali.
4. Assistant Collector IInd Grade-Cum-Tehsildar, Dabwali.
5. Kanoongo Halka Village Dabwali, District Sirsa.
6. Patwari Halka Village Dabwali, District Sirsa.
7. Hazura Singh son of Shri Mithu Singh (deceased) through Lrs.
 - (i) Harpal Singh son of Shri Harzura Singh,
 - (ii) Natho,
 - (iii) Murti, daughters of Hazura Singh, s/o Vill. Dabwali, DIST. SIRSA
8. Rajesh Kumar son of Laxman Dass son of Chet Ram, resident of

Laxman Dass Monga Wali Gali Mandi Dabwali District Sirsa

387-CA
22-9-17

9. Madan Lal son of Kaur Sain son of Shiv Lal, resident of Laxman Dass Monga Wali Gali Mandi Dabwali District Sirsa.
10. Gain Devi wife of Kishori Lal son of Ram Sarup,
11. Kanha Ram son of Shri Pat Ram son of Shri Nannu Ram,
12. Aditya Kumar son of Shri Sher Singh son of Bhagat Ram,
13. Bimla Devi wife of Shri Bhim Raj,
14. Chiman Lal son of Hem Raj son of Hari Ram,
15. Anant Ram son of Mani Ram, residents of Mandi Dabwali, Tehsil and District Sirsa.

Respondents/Judgment Debtors.

Appeal against the order dated 18-08-2017 passed by Shri Vishesh Garg, Civil Judge (Junior Division) Dabwali in Exe/49/2015 titled as Pat Vincent Barreto Versus The State of Haryana and others, vide which the Execution Petition filed by the appellant/plaintiff/deGREE holder has been dismissed with no costs.

CLAIM IN APPEAL:

For the acceptance of the appeal and for setting aside the impugned order dated 18-08-2017, as stated above, and for getting judgment and decree dated 06-10-2014 passed in Civil Suit No. 489 of 2011 titled as Pat Vincent Barreto Versus The State of Haryana and others, executed in letter and sprit as prayed in the execution petition by way of allowing the execution petition.

GROUND OF APPEAL:

RESPECTFULLY SHOWETH:-

1. That the impugned order dated 18-08-2017 passed by Shri Vishesh

as Pat Vincent Barreto Versus The State of Haryana and others, vide which the Execution Petition filed by the appellant/plaintiff/decreed holder has been dismissed with no costs is illegal, null and void, wrong, against law and facts, and as such the same is liable to be set aside. (Certified copy of the impugned order dated 18-08-2017 is attached herewith.)

2. That the Learned Lower Court has passed the impugned order (amounting to decree) dated 18-08-2017 on the basis of surmises and conjectures and as such the same are liable to set aside.
3. That the brief facts of this case are that vide judgment and decree dated 06-10-2014 passed by Shri Devender Singh, Civil Judge, (Junior Division) Dabwali, in Civil Suit No. 489 of 2011 titled as Patvincent Barreto Versus The State of Haryana and others, vide which the plaintiff/decreed holder was declared owner in possession of land comprised in Khewat No. 550 Khatta No. 857, Rect. No. 60 Killa No. 20 (7-7) to the extent 20/147 shares vide fard jamabandi for the year 2007-2008, situated in Village Dabwali, Tehsil Dabwali and District Sirsa read with sale deed bearing no. 841 dated 20-04-1991 read with mutation no. 9108 sanctioned on 16-09-1991 the order dated 05-09-2002 passed by AC IInd Grade Dabwali, was also set-aside. The plaintiff/decreed holder has been held to be entitled to his name entered as owner in to the revenue record to the extent of 20/140 shares of the aforesaid land as the plaintiff/Decreed holder had purchased the said land on the basis of sale deed no. 841 dated 24-07-1991. The plaintiff was further held entitled to consequential relief of restraining the defendants from

interfering into the possession of the plaintiff and also from alienating.

4. That as held by the Court in judgment and decree dated 06-04-2014, Hazura Singh son of Shri Mithu Singh was initially owner in possession of the suit land. The perusal of the jambandi of the year 1979-80 shows that Hazura Singh was owner in possession to the extent of 8/9 share in total land measuring 210 Kanals 2 Marlas which includes the suit land i. e. Rect. No. 60 Killa No. 20 (7-7). In Jamabndi for the year 1984-85 Hazura Singh has been shown to be owner in possession to the extent of 32 ½ shares in total land measuring 46 Kanals 14 Marlas which includes the suit land i. e. Rect. No. 60 Killa No. 20 (7-7). The court has further held that Hazura Singh was competent to sell suit land comprised in Khewat No. 550 Khatta No. 857, Rect. No. 60 Killa No. 20 (7-7), to the extent of 20/147 shares to defendants no. 8 & 9 i. e. Rajesh Kumar and Madan Lal which he had sold to them vide registered sale deed no. 2138 dated 11-11-1983 and mutation no. 7796 was duly sanctioned in favor of aforesaid Rajesh Kumar Madan Lal on the basis of aforesaid sale deed no. 2138. The learned court has also held that it were defendants no. 8 & 9 i. e. Rajesh Kumar and Madan Lal who further sold the aforesaid land to the present plaintiff/decree holder vide sale deed no. 841 dated 23-07-1991 and mutation no. 9108 was sanctioned in favor of the present plaintiff/decree holder on the basis of aforesaid sale deed no. 841 dated 23-08-1991. The learned court has further held that the order dated 05-09-2002 passed by AC IInd Grade Dabwali vide which

mutation no. 9108 in favor of the present plaintiff was canceled is illegal and being set-aside. From the perusal of the aforesaid judgment and decree it is clear that the plaintiff purchased the suit land from Rajesh and Madan Lal who had purchased the said land from Hazura. Since Rajesh and Madan Lal had purchased the suit land vide registered sale deed dated 11-11-1983 therefore further sale of property by Hazura Singh after the sale of the suit land 11-11-1983 has no effect on the rights of the decree holder because the plaintiff had purchased the property from Rajesh and Madan Lal and not from Hazura Singh. The findings of the learned lower court are thus contrary to facts and law. The sale deed dated 18-03-1987 and 27-10-1988 being subsequent to sale deed dated 14-11-1983 had no bearings on the rights of the plaintiff/appellant. It is further submitted that Smt. Chando, mother of Hazura Singh died in 1974 but the mutation of inheritance no. 7692 was sanctioned on 04-09-1988 vide which Hazura Singh inherited 2 Kanals 12 Marlas of land out of aforesaid Rect. No. 60 Killa No. 20 (7-7). All though mutation of inheritance was sanctioned in 1988 but Smt. Chando had died in 1974 so Hazura had become owner in possession of the aforesaid 2 Kanals 12 Marlas in the year 1974 itself as inheritance can never be left in abeyance. In this way it is clear that the present plaintiff/appellant/decreed holder never purchased the suit land Hazura Singh but had purchased the same from aforesaid Rajesh and Madan Lal who i. e. Rajesh and Madan Lal had purchased this suit land from Hazura Singh in 1983. In view of the above said facts the impugned order 18.08.2017 is liable to be set aside. The

appellant/plaintiff/decreed holder is entitled to get mutation sanctioned in his favor on the basis of sale deed dated 20-07-1991.

5. That the was decided on 18-08-2017 the plaintiff/appellant/decreed holder applied for the Certified copy of order on 23-08-2017, and further as per record the same was prepared on 30-08-2017 therefore, the present appeal is being filed with in a period of limitation and this Hon'ble court has jurisdiction to decide the same.

6. That the appeal is being valued for the purpose of court fee and jurisdiction as Rs. 200/-. A Court fee Stamp of Rs. 25/- is being affixed on the memo of Appeal.

It is therefore prayed that the appeal of the appellant may kindly be accepted and the order dated 18-08-2017 passed by Shri Vishesh Garg, Civil Judge (Junior Division) Dabwali in Exe/49/2015 titled as Pat Vincent Barreto Versus The State of Haryana and others, vide which the Execution Petition filed by the appellant/plaintiff/decreed holder has been dismissed with no costs, may kindly be set-aside and the execution petition filed by the decreed holder/appellant/plaintiff may kindly be accepted, in the interest of justice.

Place: Sirsa

Submitted By:

Dated: 22-09-2017

Pat Vincent Barreto son of Shri R. Barreto son of C. Barreto, resident of Village Mandi Dabwali, Tehsil Dabwali and District Sirsa.

Through: Dinesh Singh Smagh,

.....Appellant/Plaintiff/Decree Holder.

*R/ madam,
Court fee is covered and civil Appeal
is with in time. Report is submitted please.
Herewith
ASSK*

Presented by Shri D.S. Smagh
Put up in Court on Today
22-9-17
Superintendent
Gr-II (Judl)