



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(111)

RSA-2415-2025 (O&M)
Reserved on : 11.08.2025
Pronounced on:- 18.08.2025

SMT HARJIT KAUR ALIAS HARJIT KAUR SARMOTTA

... Appellant

Versus

NARINDER KAUR BEHAL (SINCE DECEASED THROUGH LRS) AND ANOTHER

... Respondents

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present:- Mr. Lokesh Sinhal, Advocate,
for the appellant.

VIRINDER AGGARWAL, J. (Oral)

1. Plaintiff filed suit for possession along with permanent injunction restraining defendants from alienating the suit land to any other person or for restraining them to deliver possession to any other person on the allegations that plaintiff purchased the suit property from defendant No.1 and was put in possession. In her absence, defendant No.2 took forcible possession of the suit property by breaking open the locks and she came to know about the same on 26.02.1998. She reported the matter to the police but no action was taken.

2. Upon notice, defendant No.1 pleaded that he purchased the property vide two sale deeds dated 30.06.1995 and thereafter, sold the same to the plaintiff vide sale deed dated 08.04.1996 and plaintiff became the exclusive owner of the suit property. Defendant No.1 contested the suit by raising preliminary objections that suit is barred by *res judicata* in view of the judgment and decree dated 24.07.2012. Defendant No.1 was declared as the owner in possession of the suit property. Both defendant No.1 and plaintiff has knowledge of this judgment and decree. The suit has been filed in collusion with



each other. Smt. Rajwant Kaur wife of Sarabjit Singh has purchased the suit property through a registered sale deed dated 20.02.2015 from defendant No.1 through his general attorneys defendant No.2 and Inderjit Sharma for valuable consideration after verifying the revenue record and on the basis of judgment and decree dated 24.07.2012. Mutation has also been sanctioned in favour of the purchaser. Purchaser has not been joined as party. Defendant No.2 is residing in the suit property with the permission of purchaser-Rajwant Kaur and on facts, he contested the suit that defendant No.1 became the owner of the suit property only on 30.06.1995 vide two sale deeds. He could not have pre-supposed his future title in the suit property in the absence of any valid conveyance deed in his favour on 13.06.1995, so execution of power of attorney with regard to the suit property before acquiring right, title or interest in the same by defendant No.1 in favour of Manjit Singh on 13.06.1995 was not possible. The general power of attorney has intentionally been withheld. The sale deed in favour of plaintiff is from an unauthorized person. A criminal case vide FIR No.313 dated 22.08.2014 was registered against plaintiff, Manjit Singh and others after the detailed inquiry by the police and SDM, Amritsar. Plaintiff has suppressed the material facts of earlier litigation. Suit is not properly valued and that suit was prayed to be dismissed.

3. From the pleadings of the parties, following issues were framed on 20.07.2016:-

1. Whether the plaintiff is entitled to permanent injunction as claimed for? OPP
2. Whether the plaintiff is entitled to the relief of possession? OPP
3. Whether the defendant No.1 executed sale deed dated 08.04.1996 with respect to the suit property in favour of plaintiff? OPP
4. Whether the suit is not legally maintainable? OPD
5. Whether the suit is barred by principle of resjudicata? OPD



6. Whether the power of attorney executed by defendant No.1 in favour of Manjit Singh is not legal and valid document? OPD-2
7. Whether Rajwant Kaur wife of Sarabjit Singh purchased the suit property vide registered sale deed dated 20.02.2015? OPD-2
8. Whether the defendant No.2 is residing in the suit property with the permission of Rajwant Kaur? OPD-2
9. Whether the suit is bad for mis-joinder and non-joinder of Rajwant Kaur wife of Sarabjit Singh? OPD-2
10. Relief.

4. Both the parties led evidence.

5. After hearing arguments, the suit was decreed by the learned Civil Judge. First appeal filed by the appellant/defendant No.2 was dismissed.

6. Aggrieved by the judgment and decree so passed, present appeal has been filed.

7. Counsel for the appellant assailed the judgment and decree primarily on two counts. First, the suit is barred by limitation as admittedly defendant No.2 has taken forcible possession of suit property in the year 1998 and the fact came to the notice of plaintiff as per the plaint on 26.02.1998. The suit filed on 17.12.2014 is certainly after lapse of period of 12 years limitation prescribed for filing the suit, so the suit is hopelessly barred by limitation. Secondly, on the ground that the sale deed in favour of the plaintiff was from an unauthorized person and was result of connivance between plaintiff and defendant No.1.

8. As regards, General Power of Attorney dated 13.06.1995 is concerned, the original was produced before the learned Civil Judge during the course of trial from record of criminal case and furthermore, only defendant No.1 could have disputed the genuineness of the sale deed in favour of plaintiff. Defendant No.1 has not disputed the sale deed in favour of the plaintiff. He has



not disputed the genuineness of the power of attorney in favour of Manjit Singh. As regards, suit being barred by limitation is concerned, no doubt plaintiff has pleaded in the plaint that defendant No.2 has taken forcible possession by breaking open the locks, which came to her notice on 28.02.1998 but suit has been filed by the plaintiff on the basis of her title and it is settled law that suit on the basis of title has no limitation period prescribed. As per Article 65 of Limitation Act, the statutory period is 12 years is to be reckoned from the date when adverse possession commenced. No doubt, in the present case, the forcible possession was alleged to have been taken before 28.02.1998 as per the plaint of the respondent/plaintiff but since, defendant No.2 is not claiming possession as owner and he has not asserted ownership of the suit property on the basis of hostile possession, so he has not perfected his title by way of adverse possession.

9. The law cited by counsel for the appellant in ***Ravinder Kaur Grewal and others versus Manjit Kaur and others, 2019 (8) SCC 729*** does not in any manner support the case of the appellant. As Para 51 of the judgment reads as under:-

“The statute does not define adverse possession, it is a common law concept, the period of which has been prescribed statutorily under the law of limitation [Article 65](#) as 12 years. Law of limitation does not define the concept of adverse possession nor anywhere contains a provision that the plaintiff cannot sue based on adverse possession. It only deals with limitation to sue and extinguishment of rights. There may be a case where a person who has perfected his title by virtue of adverse possession is sought to be ousted or has been dispossessed by a forceful entry by the owner or by some other person, his right to obtain possession can be resisted only when the person who is seeking to protect his possession, is



able to show that he has also perfected his title by adverse possession for requisite period against such a plaintiff.”

10. This paragraph clearly shows that appellant/defendant can resist the relief of possession only by showing that he has perfected his title by way of adverse possession for a period of more than 12 years but in the present case, appellant/defendant is claiming possession through Rajwant Kaur, who became owner of the property allegedly in the year 2015 only. So, possession howsoever long of the defendant would not extinguish the ownership of the respondent/plaintiff, as appellant/defendant has not claimed ownership of the property by way of adverse possession. As such, concurrent and well reasoned findings of both the Courts below does not call for any interference.

11. In view of the above, the present appeal stands dismissed. Pending miscellaneous application(s), if any, are also disposed of accordingly

18.08.2025
S. Pathania

(VIRINDER AGGARWAL)
JUDGE

Whether reasoned / speaking? Yes / No

Whether reportable? Yes / No