



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

135

**RSA-320-2025 (O&M)  
Date of decision : 11.03.2025**

**Jarnail Singh and another****..... Appellants****versus****Kanta****..... Respondent****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Arun Trikha, Advocate  
for the appellants.

Mr. Surexa Gautam, Advocate and  
Mr. Rohit Joshi, Advocate  
for the respondent.

\*\*\*\*\*

**PANKAJ JAIN, J. (Oral)**

1. Defendants are in appeal. For convenience, parties hereinafter are referred to by their original position in the suit i.e. the appellants as defendants and respondent as plaintiff.

2. Plaintiff filed suit seeking decree of mandatory injunction in form of direction to the defendants to hand over the vacant possession of the house to the plaintiff. Plaintiff claims to have purchased 01 kanal 09 marlas of land from Jit Singh and Mohan Singh, both sons of Gurbachan Singh. Plaintiff claims that a residential house was constructed by her husband. After purchase, mutation was sanctioned in the name of plaintiff. Construction was raised on 10 marlas of land and the remaining land of one kanal is still lying vacant and is in possession of the plaintiff. Plaintiff has 05 sons who are residing in one house. Plaintiff's husband raised another house with an



intent to accommodate his son Davinderpal Singh. Before he could shift, the defendants who were residing in the ancestral house, approached plaintiff and her husband. They were inducted as licensee on a payment of Rs.500/- per month. In the year 2011, the defendants were asked to vacate the house. Despite repeated requests, defendants have failed to vacate the same.

3. Suit was contested by defendants. They claimed to be in peaceful possession of the property being owners. Defendant No.1 claimed to have paid the entire amount of sale consideration of sale deed dated 08.09.1992. Defendant No.1 claimed that he was serving in Indian Army and was posted in the remote area at the time of execution of the sale deed dated 08.09.1992. Defendant No.2 was living with defendant No.1 at the place of his posting. Entire sale consideration was handed over to the plaintiff to get the sale deed executed in his name. Plaintiff instead of getting sale deed registered in name of defendant No.1, got sale deed registered in her own name. It was further claimed that husband of the plaintiff never made any construction on the suit property. Rather the defendants after purchasing the house, raised construction.

4. On the basis of the pleading, following issues were framed:-

- “1. Whether the plaintiff is entitled to suit for mandatory injunction as prayed for? OPP.
2. Whether the present suit is not maintainable? OPD.
3. Whether the plaintiff has not come to the court with clean hands? OPD.
4. Whether the plaintiff has no cause of action to file the present suit? OPD.
5. Relief.”



5. Court of the first instance, while deciding issue No.1, holding that admittedly the registered sale deed i.e. document of title is in the name of plaintiff. Mohan Singh son of Gurbachan Singh-the vendor was examined as PW2, who testified that the sale deed was executed in favour of Kanta for a valuable sale consideration of Rs.36,000/-. Court of the first instance held that there being no evidence to prove that there was any fiduciary relationship and the defendants had given the amount of sale consideration to the plaintiff, the plaintiff being owner of the suit property was entitled to vacant possession. Trial Court decreed the suit filed by the plaintiff.

6. Dissatisfied defendants filed appeal. Lower Appellate Court held that the reliance upon a deposition of PW2 Mohan to the effect that the amount of sale consideration paid by Kanta to him was handed over to her by defendant No.1 cuts into the positive plea raised by the defendant. If he was posted at a remote place at the time of execution of the sale deed, how he was present to handover the money at that point of time. In case he was present, how come sale deed was not executed by him in his favour.

7. Counsel for the appellants could not point out any question of law that arises for the consideration of this Court. The Courts below have analyzed the entire evidence threadbare. Sale deed in favour of the plaintiff has been proved on record. Defence raised by the defendant of having financed the sale and plaintiff being merely benami, could not be proved. Plaintiff being owner is entitled to get the property vacated from a licensee. Admittedly, the property in question is not an urban property.



8. Finding no merits in the present appeal and no ground to interfere in pure finding of facts recorded by the Courts below, the present appeal is ordered to be dismissed.

9. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

**(PANKAJ JAIN)**  
**JUDGE**

**11.03.2025**

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No