



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

**RSA-165-2022 (O&M)  
Date of decision : 09.01.2025**

Vimlesh ..... Appellant

versus

Vimlesh Devi & anr. .... Respondents

**CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN**

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Present :- Mr. Shiv Kumar, Advocate  
for the appellant.

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

1 Plaintiff is in second appeal. For convenience parties hereinafter are referred to by their original position in the suit i.e. the appellant as plaintiff and the respondents as defendants.

2 Pleaded case of the plaintiff was that she is an absolute owner in possession of the residential house with construction thereupon in plot No.156, measuring 160 sq. yards (60'x24') forming part of khasra No.92//8/2 situated within the revenue State of Ballabgarh. Plaintiff claimed to have acquired the ownership thereof on the basis of sale deed bearing No.2316 dated 21.05.2007. It was further claimed that the property was let out to one Ram Kumar on the basis of rent agreement dated 10.12.2015. Defendants have no concern with the suit property. Defendant No.2 is a retired police official who along with his wife i.e. defendant No.1 is trying to dispossess the plaintiff from the suit property.



3 Suit was contested by the defendants.

4 Defendant No.1 claimed that she purchased the suit property on the basis of a sale deed bearing no.2070 dated 17.05.2007 from none else, but husband of the plaintiff. It was further claimed that defendants continued to be in possession of the suit property. Court of the first instance framed the following issues :-

*“1. Whether the plaintiff is entitled to a decree of permanent injunction, as prayed for? OPP*

*2. Whether the present suit is not maintainable? OPD*

*3. Whether the plaintiff has no locus standi to file the present suit? OPD*

*4. Whether the suit is bad for mis-joinder and non-joinder of necessary parties? OPD*

*5. Whether the plaintiff has concealed the true and material facts from the Court? OPD*

*6. Relief.”*

5 Trial Court after examining the evidence on record came to the conclusion that the title by the rival parties is with respect to different properties. Plaintiff having proved established possession was entitled to decree of permanent injunction and thus decreed the suit.

6 In appeal preferred by the defendants Lower Appellate Court found that in fact the real controversy was not addressed by the Trial Court. Though both the parties are vendees under different sale deeds with respect to different parcels of the suit land comprised in different khasra numbers, but both claimed their possession over the same piece of property. Keeping in view that the suit land was described in the head note of the plaint by boundaries and was accompanied by the site plan, Lower Appellate Court keeping in view the examination of the Draftsman and the plaintiff, came to the conclusion that the site plan



propounded by the plaintiff, itself does not as per the sale deed relied upon by the plaintiff. Even the sale deed was not found to be free from suspicion. Plaintiff in her cross examination admitted that the sale deed was not on account of any monetary transaction, whereas as per the recitals contained in the sale deed, the land was sold for a valuable consideration of Rs.2,40,000/-. In view thereof, the Lower Appellate Court found that in fact sale deed Ex.P-2, propounded by the plaintiff was a sham transaction which was executed just 5 days after execution of sale deed in favour of defendant No.1. Sale deed in favour of plaintiff was executed by Zile Singh, whereas one executed in favour of defendant was by son of Zile Singh acting as GPA of Girraj Singh and Babu Lal. Lower Appellate Court further found that even the pleading with respect to raising of construction was got demolished by the cross-examination of the plaintiff herself. Resultantly, Lower Appellate Court reversed the findings recorded by the Trial Court and dismissed the suit filed by the plaintiff.

7            Learned counsel for the plaintiff submits that the Lower Appellate Court has completely misdirected itself in coming to the conclusion that it is the same property. In order to hammerforth his contention, he relied upon cross examination of DW-1 and submits that he categorically admitted that the properties were different yet Lower Appellate Court held that the property is the same.

8            I have heard learned counsel for the plaintiff and have gone through the records of the case.



9           There is no doubt with respect to the fact that the parcels of land as well as sale deeds propounded by the rival parties are different. But it is also true that both the rival parties are claiming possession over the same parcel of land. Plaintiff in order to claim permanent injunction has relied upon sale deed Ex.P-2, wherein the suit land has been described to be one bearing Rect.No.92, Khasra No.8/2. However, in the plaint, the suit property was mentioned by boundaries. In order to prove the same, reliance was being placed upon site plan Ex.P-1. Lower Appellate Court after analysing the evidence came to the conclusion that the site plan itself did not tally with the sale deed. Mr. Shiv Kumar, Advocate is not in a position to dispute the aforesaid fact being a finding based on the records of the case.

10           In view thereof, this Court finds that even if sale deed as propounded by the plaintiff is found to be legal and valid, the property described in the plaint by boundaries based upon the site plan attached to the plaint Ex.P-1 did not match. The plaintiff thus failed in proving her possession over the suit land. In view of above, this Court does not find any reason to interfere in well reasoned findings recorded by the Courts below.

11           Resultantly the appeal is dismissed.

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

**09.01.2025**

*Pooja sharma-I*

Whether speaking/reasoned	Yes
Whether Reportable :	No