



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

139

RSA-6039-2018 (O&M)

Date of decision: 22.01.2025

USHA SHARMA

..Appellant

Versus

RAJNI AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kulwant Singh, Advocate
for the appellant.

Mr. Ashwani Gaur, Advocate
Ms. Shivangi Sharma, Advocate
for respondent No.1.

ANIL KSHETARPAL, J(Oral)

1. Defendant No.1 assails the correctness of concurrent findings of fact arrived at by the Courts below while decreeing plaintiff's suit for grant of decree of declaration that she is owner in possession of plot No.166 measuring 202 square yards located in *Darra Khurd*. The plaintiff claims ownership on the basis of sale deed dated 15.04.2010, which was executed by Smt. Krishna Devi wife of Sh. Jarnail Singh. Similarly, defendant No.1 claims to have purchased the property vide sale deed dated 11.11.2009 from Smt. Krishna Devi wife of Sh. Jarnail Singh.

2. Defendant No.1 while filing the written statement claims that the plaintiff produced an imposter of Smt. Krishna Devi to get the sale deed registered in her favour.

3. Both the Courts have found that defendants miserably failed to prove the aforesaid assertion.



4. It may be noted here that the suit property was mortgaged with the bank against a loan, which was repaid by Smt. Krishna Devi before executing the sale deed in favour of plaintiff on 15.04.2010. The plaintiff has also produced sale deed executed by Sh. Parkash Chand in favour of Smt. Krishna Devi. Thus, the Court upon appreciation of evidence have found that plaintiff is a genuine purchaser of the property and defendant No.1 failed to prove her case.

5. Learned counsel representing the appellant submits that the sale deed executed in favour of defendant No.1 is prior to the sale deed executed in favour of the plaintiff, hence, she has a superior right. He further submits that defendants have produced the voter card of Smt. Krishna Devi, wife of Sh. Jarnail Singh and also voter list to prove that the sale deed executed in her favour was genuine.

6. Per contra, the learned counsel representing the respondent submits that the property was mortgaged and the loan was repaid by Smt. Krishna Devi in the year 2010. It is only thereafter, the sale deed was executed in favour of the plaintiff. Smt. Krishna Devi also handed over the sale deed, which was executed in favour of Smt. Krishna Devi by Sh. Parkash Chand. Bank official was also examined to prove that fact.

7. This Court has considered the submissions of learned counsel for the parties.

8. Defendant No.1 contested the suit on the ground that the plaintiff got the sale deed executed from an imposter to execute the sale deed, however, she failed to prove that fact. The appellant also does not dispute that the property was mortgaged with the bank against loan, which was repaid only in the year 2010. There is no reference to the loan in the sale



deed dated 11.11.2009. In such circumstances, the appellant has failed to prove her case, whereas, the plaintiff has produced cogent evidence to prove genuineness of the sale deed executed in her favour.

9. Hence, no ground to interfere is made out.

10. Dismissed accordingly.

11. All the pending miscellaneous applications, if any, are also disposed of.

January 22nd, 2025

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**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*