



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.761 of 2022 (O&M)

Date of decision: 01.05.2025

Kewaljit Singh and others

....Appellants

V/s

Bhajan Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Rani S. Thakur, Advocate, for the appellants.

VIKRAM AGGARWAL, J. (ORAL)

Plaintiffs are in appeal against the judgment and decree dated 25.02.2020 passed by the Court of learned Additional District Judge, Moga, dismissing the appeal against the judgment and decree dated 24.01.2017 passed by the Court of learned Civil Judge (Jr. Divn.), Moga, vide which the suit of the plaintiffs for declaration and consequential relief of permanent injunction was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. Plaintiffs filed a suit for declaration to the effect that plaintiffs were the owners in possession of land measuring 48 *kanals* 3 *marlas* in equal shares situated in the area of Kore Kalan, District Moga (fully described in the plaint) (hereinafter referred to as the "suit property") and the alleged sale deeds dated 18.11.1996 (Vasika No.4888) and 19.11.1996 (Vasika No.4935) executed in favour of defendants No.1 and 2 by Nasib Kaur and subsequent mutations No.2695 and 2696 were null and void as the same were the result of fraud and misrepresentation. Alternatively, they sought joint possession of the suit property with consequential relief of



permanent injunction restraining the defendants from alienating, transferring, disposing of the suit property in any manner.

4. The case set up by the plaintiffs was that plaintiffs No.1 to 3 are the sons of Nasib Kaur daughter of Ghumand Singh, who was the original owner in possession of the suit property and plaintiff No.4 (father of plaintiffs No.1 to 3) is the husband of Nasib Kaur. During the lifetime of Nasib Kaur, Nasib Kaur and plaintiffs used to receive rent of the suit property from defendant No.1 every year. Nasib Kaur died on 14.09.1998. Plaintiffs claimed that they being the Class I heirs of Nasib Kaur, complete share of the suit property devolved upon them in equal shares. On the demise of Nasib Kaur, the defendants also assured the plaintiffs that mutation of inheritance would be sanctioned in their favour. After the death of Nasib Kaur, defendants No.1 and 2 kept on paying rent of the suit property to the plaintiffs but they had not paid the second installment of rent from the year 2011-12 and eventually refused to pay the rent. Defendants further claimed that they had become owners of the suit property on the basis of sale deeds executed by Nasib Kaur in the year 1996. The factum of sale deeds having been executed in favour of the defendants by Nasib Kaur had never been disclosed to the plaintiffs by Nasib Kaur during her lifetime. The alleged sale deeds had been fabricated by impersonation. Nasib Kaur had never put her thumb impressions on the sale deeds. The alleged amount of consideration of Rs.6 lakhs was never brought by Nasib Kaur to the house nor she had deposited the same in the bank. Defendants No.1 and 2 had paid rent of the suit property to the plaintiffs even after the death of Nasib Kaur for 12 years. The witnesses to the sale deeds in question were strangers and were not the residents of Village Korewala or Sikhanwala. The



basic stand taken was that the sale deeds dated 18.11.1996 and 19.11.1996 were the result of fraud and misrepresentation.

5. The suit was resisted by the defendants. Separate written statements were filed by all the defendants. In the written statements, preliminary objections regarding valuation, jurisdiction, cause of action, mis-joinder of parties etc. were raised. On merits, it was averred by defendants No.1 and 2 that sale deeds dated 18.11.1996 and 19.11.1996 were executed by Nasib Kaur, whose photograph appeared on both sale deeds. It was averred that land measuring 24 *kanals* 1/1/2 *marlas* was sold for a sale consideration of Rs.3 lakhs to Bhajan Singh (defendant No.1) vide registered sale deed dated 18.11.1996 and another 24 *kanals* 1-1/2 *marlas* for a sum of Rs.3 lakhs to defendant No.2 (Ajit Singh) vide sale deed dated 19.11.1996. It was averred that the sale deeds were legal and valid and the factum of rent having been paid to the plaintiffs was denied by the defendants. In the written statement filed by defendants No.3 and 4, it was averred that Nasib Kaur was not the owner of the suit property at the time of her death. It was averred that question of devolution of property of Nasib Kaur upon the plaintiffs did not arise since the suit property had already been sold to the defendants. It was averred that defendants No.3 and 4 were the owners of the suit property on the basis of sale deed dated 03.11.2003 and they were *bona fide* purchasers for valuable consideration. In the written statement filed by defendant No.6, it was averred that defendant No.1 had already exchanged his land measuring 1 *kanal* 13 *marlas* with defendant No.6 through agreement of exchange dated 02.12.2002. It was averred that in exchange, defendant No.6 given his land measuring 1 *kanal* 13 *marlas* to defendant No.1. It was averred that for the said exchange of land, mutation



No.3715 had been sanctioned. Other averments were denied. Defendant No.5 did not appear before the trial Court and he was proceeded against *ex parte*. After filing of the written statement, defendant No.6 also did not appear before the trial court and he was also proceeded against *ex parte*.

6. From the pleadings of the parties, following issues were framed by the trial Court:-

- “1. Whether the sale deeds dated 18.11.1996 bearing vasika No.4888 and dated 19.11.1996 bearing vasika No.4935 allegedly executed by Nasib Kaur (now deceased) in of defendants No.1 and 2 and mutations No.2695 and 2696 sanctioned on the basis thereof are illegal, null and void and same are the result of fraud and misrepresentation having no effect on the rights of plaintiffs?OPP**
- 2. If issue No.1 is proved, whether plaintiffs are entitled to the relief of declaration, as prayed for?OPP**
- 3. Whether, in the alternative, plaintiffs are entitled to the relief of joint possession of suit land?OPP**
- 4. Whether plaintiffs are entitled to consequential relief of permanent injunction, as prayed for?OPP**
- 5. Whether suit has not been properly valued for the purpose of court fee & jurisdiction?OPD**
- 6. Whether suit is bad on account of mis-joinder of necessary parties?OPD**
- 7. Whether suit is not maintainable?OPD**
- 8. Relief.”**

7. Parties led their respective evidence. The trial Court dismissed the suit filed by the plaintiffs and the appeal preferred by them against the said judgment and decree was also dismissed by the first Appellate Court leading to the filing of the present second appeal.

8. I have heard learned counsel for the appellants.

9. Learned counsel for the appellants submits that the Courts erred in dismissing the suit filed by the plaintiffs. Learned counsel submits that Nasib Kaur had never executed the alleged sale deeds during her lifetime in favour of defendants No.1 and 2 and the alleged sale deeds are false and the



result of fraud and manipulations and the subsequent mutations sanctioned on the basis of said sale deeds are also illegal, null and void. Learned counsel further submits that the attesting witnesses to the sale deeds were not from the village and were strangers. Learned counsel further submits that if defendants had become the owners of the suit property on the basis of the alleged sale deeds, then question of paying rent to the plaintiffs after the death of Nasib Kaur does not arise. However, defendants paid rent to the plaintiffs till 20.10.2011, whereas Nasib Kaur died on 14.09.1998.

10. I have considered the submissions made by learned counsel for the appellants but find the same to be devoid of merit.

11. The plaintiffs pleaded fraud. The categorical stand of the plaintiffs was that Nasib Kaur had not executed the alleged sale deeds in favour of defendants No.1 and 2 and no sale consideration was received by Nasib Kaur. The alleged sale deeds were stated to be the result of fraud and manipulations. Plaintiff No.1 (Kewaljit Singh) himself appeared as PW1. He tendered his affidavit as Ex.PW1/A. He reiterated the averments made in the plaint. Sarabjit Singh appeared as PW2. He also tendered his affidavit as Ex.PW2/A and proved on record the pass-book of deceased Nasib Kaur as Ex.PW2/B issued by the Faridkot Central Cooperative Bank. No other evidence was produced by the plaintiffs. It has to be borne in mind that fraud has to be pleaded and proved by leading cogent evidence.

12. On the contrary, defendants examined Karnail Singh, deed writer, who was scribe of the sale deed dated 18.11.1996 as DW-1 and he tendered his affidavit as Ex.DW1/A and proved the execution of the sale deeds as Ex.D1 and D2 and entry of the same in his register as Ex.D3. He categorically stated that the sale deeds had been scribed by him at the



instance of Nasib Kaur in favour of defendants No.1 and 2. Defendants also examined Iqbal Singh, who was one of the attesting witnesses of the sale deeds as DW2. He deposed that sale deeds Ex.D1 and Ex.D2 were executed by Nasib Kaur in favour of defendants No.1 and 2 in his presence and he acknowledged the accuracy of the contents. He also identified his signatures on the sale deeds. He categorically stated that Nasib Kaur put her thumb impressions on the sale deeds after having received the sale consideration of Rs.3,00,000/- each from defendants No.1 and 2. Defendant No.1 (Bhajan Singh) himself appeared as DW3 and tendered his affidavit Ex.DW3/A and reiterated the versions taken in the written statement. All witnesses produced by the defendants were duly cross-examined by the learned counsel for the plaintiffs and nothing incriminating was found by both Courts to doubt their testimonies. Both the Courts discussed the matter in view of the factual position and arrived at a conclusion that the defendants had duly proved the execution of the sale deeds and held the same to be legal and valid. It was the categoric case of the plaintiffs that they had been receiving rent of the suit property from defendants No.1 and 2 till 20.10.2011 after the death of Nasib Kaur on 14.09.1998. However, no rent receipt was produced by the plaintiffs to prove the said fact nor any proceedings were initiated by the plaintiffs to recover the arrears of rent. The attesting witnesses to the sale deeds and scribe were examined and they duly admitted the execution of the sale deeds in favour of defendants No.1 and 2 by Nasib Kaur. Merely because the attesting witnesses were not residents of the village of the plaintiffs does not mean that the sale deeds were executed fraudulently. Even the endorsement made by Sub-Registrar on the back of the sale deeds was duly proved as Ex.D1/A and Ex.D2/A.



It is hard to accept that the execution of the sale deeds which was reflected in the revenue record in the year 1998 was not in the knowledge of the plaintiffs till 2012. If the plaintiffs were so anxious to prove that the sale deeds were not genuine, they could have examined some expert to prove that the signatures/thumb impressions were not of Nasib Kaur. It needs to be reiterated that a plea of fraud is not only to be pleaded but is to be proved by leading cogent evidence, which the plaintiffs miserably failed to do. Under the circumstances, both the Courts rightly non-suited the plaintiffs.

13. In the considered opinion of this Court, there is absolutely no illegality in the judgments and decrees passed by the Courts below warranting any interference in second appeal. Nothing has been brought to the notice of the Court which could have led this Court to interfere in the impugned judgments. In fact, pure findings of facts have been recorded by the Courts below and, therefore, no occasion arises for this Court to interfere with the same in second appeal.

14. In view thereof, I do not find any merit in the present appeal and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

May 01, 2025

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No