



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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RSA No.677 of 2021 (O&M)  
Reserved on: 05.04.2025  
Pronounced on: 02.07.2025

Jasbir Singh and another

.....Appellants

Versus

Bahadur Singh and others

..... Respondents

RSA No.723 of 2022 (O&M)

Jasbir Singh @ Jasvir Singh and another

.....Appellants

Versus

Bahadur Singh and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL

Argued By: Mr. G.S.Punia, Sr. Advocate with  
Ms. Harveen Kaur, Advocate for the appellants.

Mr. K.B.Raheja, Advocate for the respondents.

VIKRAM AGGARWAL, J.

Though the afore-titled appeals arise out of separate judgments and decrees, I propose to decide them together, for, the parties to the *lis* are the same, so is the suit land. The facts are intertwined and, therefore, it would be more appropriate to decide both cases by way of a single judgment, though, facts of both cases shall independently be referred.

2. It is a classic case of ill intent, fraud and abuse of the process of law, as a result of which, Bahadur Singh and Nasib Kaur have been prevented from become owners of the suit land which they had agreed to purchase vide



agreement to sell dated 19.12.2002. Before referring to the specific facts of each case, a bird's eye view of the matter is required to be noticed.

3. The suit land, measuring 44 kanal 14 marla, situated in the revenue estate of village Sandaur, Tehsil Malerkotla, District Sangrur was owned by one Avtar Singh. Avtar Singh executed an agreement to sell on 19.12.2002 in favour of Bahadur Singh and Nasib Kaur. He agreed to sell the suit land to them at the rate of Rs. 73,000/- per bigha. Earnest Money of Rs. 2,00,000/- was paid to him. The sale deed was to be registered on or before 29.05.2003.

3(i) Suit No. 40 dated 27.02.2003 was instituted by Bahadur Singh and Nasib Kaur (hereinafter referred to as the plaintiffs) for permanent injunction against Avtar Singh (hereinafter referred to as the defendant) (subsequently represented by legal representatives). Avtar Singh was sought to be restrained from alienating the suit land. The present appellants Jasbir Singh and Jagdeep Singh (hereinafter referred to as the subsequent claimants) who are none else but the real nephews of Avtar Singh (sons of Mohinder Singh, real brother of Avtar Singh), filed an application under Order 1 Rule 10 of Code of Civil Procedure, 1908 (hereinafter referred to as CPC) seeking to be impleaded as defendants claiming that an agreement to sell dated 07.12.2002 had been executed by Avtar Singh in their favour. Before the said application could be decided, the civil suit was withdrawn by the plaintiffs on 14.06.2003 with liberty to file a suit for specific performance.

3(ii) A Civil Suit No.199 dated 09.06.2003 was filed by the plaintiffs for possession by way of specific performance of the agreement to sell dated 19.12.2002. Vide order dated 22.09.2003, *ad interim* injunction restraining



the defendant from alienating the suit land was passed. Subsequent claimants instituted an application under Order 1 Rule 10 for being impleaded as parties, again relying upon the agreement to sell dated 07.12.2002. However, the same was dismissed on 12.05.2004.

3(iii) In the meantime, the subsequent claimants had instituted Civil suit No.431 dated 03.12.2003 against the defendant Avtar Singh for possession by way of specific performance of agreement to sell dated 07.12.2002. In this suit, Avtar Singh initially appeared but subsequently did not appear nor did he file his written statement. He was, therefore, proceeded against *ex parte* on 12.02.2004 and an *ex parte* judgment and decree in favour of the subsequent claimants was passed on 10.06.2004. Pursuant to the same, execution proceedings were instituted. The plaintiffs filed an application under Order 6 Rule 17 to amend the suit to challenge the judgment and decree dated 10.06.2004 and also to implead the subsequent claimants. The same was, however, dismissed on 22.03.2006 by observing that they could file a separate suit. This order was upheld up to the Supreme Court of India.

4. The plaintiffs, therefore, instituted Civil Suit No.42 dated 28.01.2008 seeking a declaration that the judgment and decree dated 10.06.2004 passed in Civil Suit No.431 dated 03.12.2003 was the result of collusion and fraud and was, therefore, null and void and not binding upon the rights of the plaintiffs and the sale deed dated 27.01.2005 executed on the basis of the said judgment and decree was also illegal, null and void.

5. Both suits instituted by the plaintiffs i.e. the suit for possession by way of specific performance and for declaration were decreed by the trial Court and appeals preferred against the same were dismissed, leading to the



filing of the present Regular Second Appeal.

6. It would be relevant to mention herein that though in the suit for declaration, the subsequent claimants were parties, they were not parties in the suit for possession by way of specific performance and their application for being impleaded as parties had been dismissed but despite the same, they have preferred the second appeal.

7. The suit for declaration was decreed by the Court of Additional Civil Judge (Sr. Divn.), Malerkotla on 31.03.2014 and appeal preferred by the subsequent claimants was dismissed on 28.02.2020, by the Court of Additional District Judge, Sangrur. The suit for possession by way of specific performance was decreed by the Court of learned Additional Civil Judge (Sr. Divn.), Malerkotla, on 31.03.2014 and the appeal against the said judgment and decree was dismissed by the Court of Additional District Judge, Sangrur on 28.02.2020. It, therefore, means that both suits were decided on the same day by the same Court, though, they had not formally been consolidated.

8. In the suit for declaration (out of which RSA-677-2021 has arisen), from the pleadings of the parties, following issues were framed by the trial Court:-

- 1. Whether the plaintiffs are entitled to the relief of declaration, as prayed for? OPP**
- 2. Whether the plaintiffs are entitled to the relief of permanent injunction as prayed for? OPP**
- 3. Whether the present suit is not maintainable? OPD**
- 4. Whether the present suit is barred as per provisions of order 2 Rule 2 C.P.C.?**
- 5. Whether the present suit is hit by principle of resjudicata? OPD**
- 6. Whether the plaintiffs are estopped by their own act and conduct from filing the present suit? OPD**



**7. Whether the present suit has not been properly valued for the purpose of court fee? OPD**

**8. Relief.**

9. The stand taken by the subsequent claimants was again that agreement to sell dated 07.12.2002 had been executed in their favour by the defendant Avtar Singh and had received earnest money of Rs. 50,000/-. Sale deed was to be executed on 01.11.2003. Other details as regards the other suits were also given which had duly been noticed in the opening part of the judgment.

10. In the suit for possession by way of specific performance (out of which RSA-723-2022 arises), from the pleadings of the parties, following issues were framed by the trial Court:-

**1. Whether the defendant executed an agreement to sell in favour of the plaintiffs on 19.12.2002? OPP**

**2. Whether the plaintiffs always remained ready and willing and are still ready and willing to perform their part of agreement for sale? OPP**

**3. Whether the plaintiffs are entitled to possession by way of specific performance of the agreement to sell dated 19.12.2002? OPP**

**4. In case the plaintiffs fail in issue no.3, whether they are entitled to recover of Rs.4,00,000/- alongwith interest? OPP**

**5. Whether suit is maintainable in the present form? OPP**

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

**7. Whether the suit is barred under order 2 Rule 2 C.P.C.? OPD**

**8. Whether the suit is barred under order 23 C.P.C.? OPD**

**9. Whether the plaintiffs are estopped by their act and conduct from filing the present suit? OPD**

**10. Relief.**

Vide order dated 20.12.2013 the issue no.5 was amended and additional issue no.9B was framed as follows:

**5- Whether the suit of plaintiffs is not legally maintainable in the present form? OPD**

**9-B Whether the agreement to sell dated 19.12.2002 was executed by the defendant in favour of plaintiffs as security for payment of loan of**



**Rs.2,00,000/-? OPD**

11. The defendant had denied the execution of the agreement to sell and had stated that he had borrowed a sum of Rs. 2,00,000/- as loan and the agreement to sell dated 19.12.2002 is just a security. The plaintiffs had also been told that the defendants had already executed an agreement to sell dated 07.12.2002 in favour of the subsequent claimants and that a sum of Rs.50,000/- had been received by him from the subsequent claimants.

12. Parties led their respective evidence in both suits. As was noticed in preceding paragraphs, both suits were decreed and both appeals were dismissed.

13. I have heard learned counsel for the appellants.

14. It would be relevant to mention here that notice of motion was not issued. Only notice in the application for preponment was issued vide order dated 05.02.2024 and notice in the application for bringing on record the legal representative of Jagdeep Singh (appellant No.2) was issued vide order dated 27.09.2024 and the same was allowed by co-ordinate Bench vide order dated 19.11.2024.

15. Mr. G.S.Punia, learned Senior counsel for the appellants strenuously urged that both Courts erred in decreeing the suits and dismissing the appeals. Reference was made to the entire oral and documentary evidence led on the record of the case and strenuous efforts were made to convince the Court that the judgments and decrees are not sustainable. Learned Senior counsel read out the findings in detail and also referred to the orders vide which the applications under Order 6 Rule 17 and under Order 1 Rule 10



moved by the plaintiffs were dismissed and the said order was upheld up to the Supreme Court of India. It was submitted that the impugned judgments and decrees are not sustainable.

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

17. As has been noticed in the opening part of judgment, the present case is a classic case of ill intent, fraud, misuse and abuse of the process of law. The plaintiffs initially filed a suit for permanent injunction (C.S. No.40 dated 27.02.2003). The defendant Avtar Singh duly appeared in the said suit and gave a statement that he would not alienate the suit property. Then the subsequent claimants moved an application under Order 1 Rule 10 for being impleaded as party relying upon an agreement to sell dated 07.12.2002. This suit was however, withdrawn on 14.06.2003 with liberty to file a suit for specific performance. Thereafter, Suit No.199 dated 09.06.2003 was filed by the plaintiffs for possession by way of specific performance of agreement to sell dated 19.12.2002. In this case, *ex parte* stay was granted on 22.09.2003 and the defendant Avtar Singh was restrained from alienating the suit property. Here also, subsequent claimants moved an application under Order 1 Rule 10 CPC but the same was dismissed on 12.05.2004. They did not challenge the said order any further and the order became final.

18. Avtar Singh contested the suit. Both Courts concurrently found that the agreement to sell had been executed by Avtar Singh in favour of the plaintiffs and that he was not able to prove that he had taken Rs. 2,00,000/- as loan. The agreement dated 07.12.2002 (Ex. P4) was not found to be a security document. It was also found that the defendants had been unable to prove the



execution of the agreement to sell dated 07.12.2002. Nothing has been pointed out which would have even, *prima facie* led this Court to interfere in the concurrent findings of facts recorded by both Courts. Both Courts also found that the plaintiffs had been ready and willing to perform their part of the agreement. Nothing has been pointed out to suggest that the said findings are erroneous. As regards the suit for declaration (C.S. No.42 dated 28.01.2008) both Courts concurrently found that defendant Avtar Singh had colluded with his nephews (subsequent claimants) leading to passing of the judgment and decree dated 10.06.2004 and execution of sale deed dated 27.01.2005. The collusion was writ large on its face. He appeared initially but thereafter did not appear and contest as a result of which an *ex parte* decree was passed. The only success that defendant Avtar Singh and his nephews Jasbir Singh and Jagdeep Singh achieved was to dodge the system and prolong the litigation to their advantage and to the disadvantage of the plaintiffs. Such litigants have plagued the legal system and are a primary cause of delay in decision of important issues between parties. The defendant Avtar Singh and his nephews (subsequent claimants) clearly misused and abused the legal process.

19. Having gone through the impugned judgments and decrees in minute detail and having perused the records and also having considered the arguments addressed by learned Senior counsel for the appellants, this Court finds absolutely no reason to interfere in the concurrent findings recorded by both Courts in both suits.

20. No question of law arises for consideration by this Court warranting interference in second appeal.



21. As a consequence of the aforesaid discussions, the present appeals are devoid of merit and the same are accordingly dismissed.

Pending application(s), if any, stands disposed of accordingly.

**(VIKRAM AGGARWAL)  
JUDGE**

**Pronounced on: 02.07.2025**

*Manoj Bhutani*

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No