

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

**Date of Decision: March 20, 2025  
RSA No.5945 of 2018 (O&M)**

**Pardeep and another**

**. . . . Appellants**

**Vs.**

**Mohar Singh and another**

**. . . . RESPONDENTS**

**CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA**

**Present:-** Mr. Vishwajeet Singh, Advocate for the appellants.

**DEEPAK GUPTA, J.**

Suit for possession by way of specific performance, regarding property in dispute, filed by plaintiff – Mohar Singh (*contesting respondent herein*) was decreed by the trial Court vide judgment dated 09.02.2015. The appeal filed by the defendants (*appellants and proforma respondent herein*) was dismissed by the Appellate Court of learned Addl. District Judge, Gurugram, vide judgment dated 07.02.2018. Against the concurrent findings, two of the defendants have approached this Court by way of present regular second appeal.

2. To avoid confusion, parties shall be referred as per their status before the trial Court.

3. Defendant No.1 – Satbir being owner of the suit property measuring 05 kanals 12 marla agreed to sell the same to the plaintiff for total consideration of ₹2,80,000/- vide an agreement dated 24.08.2005 and received an amount of ₹1,10,000/- as earnest money. Target date for execution and registration of sale deed was agreed to be 23.07.2006. As per plaintiff, he went to the office of the Sub Registrar on 24.07.2006, as 23.07.2006 was holiday being Sunday, along with remaining sale consideration and expenses for stamp and registration charges, but vendor-defendant did not turn up. He got his presence marked by getting an affidavit

attested from Sub Registrar, Farrukh Nagar. He then served a legal notice upon defendant No.1 on 03.08.2006 asking him to appear in the office of Sub Registrar on 23.8.2006 to execute and register the sale deed. Defendant No.1 still failed to do, as he did not turn up in the office of Sub Registrar on 23.08.2006. Plaintiff again got his presence marked by getting an affidavit attested. Claiming that he was already ready and willing to perform his part of contract and was still & willing to do so, plaintiff prayed for decree of specific performance.

4. Defendant Nos.2 and 3 (*appellants herein*) are the minor sons of vendor-defendant No.1. The three defendants filed the joint written statement claiming therein that agreement to sell was got executed by plaintiff from defendant No.1 under the influence of liquor and that defendant No.1 did not want to sell the property in dispute. It was also claimed that defendant No.1 had already executed the release deed dated 09.09.2005 in favour of defendant Nos.2 and 3 and now these defendant are owners of the suit property.

5. Necessary issues were framed. Evidence produced by the parties was taken on record. The trial Court decreed the suit and appeal filed by the three defendants was dismissed, thus upholding the findings of the trial Court.

6. Defendant No.1 – vendor - Satbir has not assailed the aforesaid concurrent findings. Rather, it is defendant Nos.2 and 3, who have approached this Court by way of present regular second appeal.

7. It is contended by learned counsel for the appellants that agreement to sell was got executed by the plaintiff by making defendant No.1 to consume liquor and thus, the agreement to sell was not the result of free volition. One of the attesting witnesses to the agreement to sell, examined by the defendants, supported their case in this regard, but the Courts below wrongly disbelieved him. It is further claimed that property in dispute was ancestral in the hands of defendant – Satbir and so, he did not have the right

to execute the agreement to sell. Prayer is accordingly made to set aside the impugned judgments and decrees.

8. After considering submissions of learned counsel for the appellants and having gone the judgments passed by the Courts below, this Court does not find merit in the present appeal.

9. The agreement to sell (EX.P1) has been duly proved not only by the testimony of plaintiff – Mohar Singh, who was examined as PW3, but further proved by the testimony of PW1 – Karan Singh, who had scribed the document and PW2 – Jaibir, who was one of the attesting witnesses of the said agreement. Though DW2 – Suresh Kumar Nambardar, another attesting witness to the agreement tried to support the stand of defendants by claiming that signatures of defendant – Satbir were obtained under the influence of liquor on some blank papers, but he could not withstand the test of cross-examination, as it has been found by the Courts below that the witness never denied either the signatures of the defendant or that of the attesting witnesses on the agreement.

10. Apart from above, the Courts below have also observed that there is no valid explanation as to why the defendant had put his signatures on blank papers. The case set up by him that he had to take certain loan from the bank was also not believed, as it was not explained as to for what purpose the loan was to be taken and what authority the plaintiff had to get the loan advanced from the bank, as was claimed by the defendants.

11. It has also been rightly observed by the courts below that within days of the execution of the agreement to sell and a few days after being served legal notice, defendant No.1, with a malafide intention executed the release deed in favour of his sons, i.e. defendant Nos.2 and 3 on 09.09.2005. As such, the said release deed did not affect the rights of the plaintiffs. No evidence could be produced by the defendants to prove the ancestral nature of the suit property as was claimed.

12. In view of all the aforesaid facts and circumstances, this Court does not find any ground whatsoever to interfere in the well-reasoned concurrent findings of facts as recorded by the Courts below. There is no scope for interference in the absence of any illegality or perversity in the findings. Holding the present appeal to be devoid of any merit, the same is hereby dismissed.

**March 20, 2025**

*Sarita*

**(DEEPAK GUPTA)**

**JUDGE**

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No