



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

**RSA-2108-2022 (O&M)
Decided on : 20.05.2025**

Kuldip Singh Appellant

Versus

Ashwani Kumar Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present : Mr. Vikas Gupta, Advocate
for the appellant.

Ms. Puja Chopra, Advocate
for the caveator-respondent.

VIKRAM AGGARWAL, J (ORAL)

This is plaintiff's second appeal against the judgment and decree dated 03.08.2021, passed by the Court of District Judge, Tarn Taran dismissing the appeal filed by the plaintiff against the judgment and decree dated 20.09.2018, passed by the Court of Additional Civil Judge (Senior Division), Patti, vide which the suit for declaration filed by the plaintiff had been dismissed.

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

3. The plaintiff Kuldip Singh filed a suit for declaration to the effect that he was the owner in possession of land measuring 44 kanal 13 marlas (fully described in the plaint) (hereinafter referred to as 'the land in dispute'), situated at Village Mastgarh, Tehsil Patti, District Tarn Taran, being a co-sharer. A



declaration was also sought to the effect that the entries made in the revenue record in the name of defendant Ashwani Kumar on the basis of sale deeds dated 02.08.2004 and 13.06.2007 allegedly executed by the plaintiff in favour of the defendant were illegal, null and void, forged and fabricated and were the result of fraud, misrepresentation, impersonation and forgery committed by the defendant.

4. The case set up by the plaintiff was that he was cultivating the land in dispute alongwith the other land owned by him. The defendant was running a commission agent business in Grain Market, Khem Karan and the plaintiff had been supplying crops to him. Both the defendant and plaintiff were having business dealings with each other since long. It was averred that the defendant fraudulently obtained the signatures and thumb impressions of the plaintiff on blank papers and by using the same, he had got sanctioned the mutation of the land in dispute in his name. When the plaintiff came to know about the said fraud, he made requisite inquiries. The plaintiff came to know that the defendant had got mutation sanctioned in his favour in the revenue record. Despite repeated requests, the defendant did not admit the claim of the plaintiff, leading to the filing of the suit.

5. The suit was opposed by the defendant. In the written statement, preliminary objections as regards the suit not being properly valued for the purpose of Court fee and jurisdiction, plaintiff being estopped by his act and conduct, the defendant being a bonafide purchaser, the suit being not maintainable etc. were raised. On merits, it was averred that the defendant had purchased land measuring 16 kanals and 15 kanals for Rs.2,70,000/- and the land measuring 15 kanals 19 marlas for Rs.3,00,000/- from the plaintiff vide registered sale deeds



dated 02.08.2004 and 13.06.2007 respectively and on the basis of said sale deeds, the mutation had been sanctioned.

6. In the replication, averments made in the written statement were denied and those made in the plaint were reiterated.

7. From the pleadings of the parties, the trial Court framed the following issues:-

1. Whether the plaintiff is entitled to declaration as prayed for ?
OPP
 2. Whether the plaintiff is entitled to permanent injunction as prayed for ? OPP
 3. Whether present suit is not well within time as prayed for ?
OPP
 4. Whether present suit is not properly valued for the purpose of court fee and jurisdiction ? OPD
 5. Whether plaintiff is estopped by his act and conduct from filing the present suit ? OPD
 6. Whether the defendant is bonafide purchaser in good faith for consideration after due enquiry from the Revenue Record and is protected under Section 41 of Transfer of Property Act ? OPD
 7. Whether the present suit is not maintainable ? OPD
 8. Whether the present suit is bad for non joinder of necessary parties ? OPD
 9. Relief.
8. Parties led their respective evidence.
9. The trial Court dismissed the suit filed by the plaintiff and the appeal filed against the said decision was also dismissed, leading to the filing of the



present regular second appeal.

10. I have heard learned counsel for the appellant as well as learned counsel representing the respondent-caveator.

11. Learned counsel for the appellant-plaintiff submits that both Courts erred in dismissing the suit. It has been argued that the appellant had duly been able to prove that he was in possession of the land in dispute, being a co-sharer and that the defendant committed a fraud and got the sale deeds executed in his favour.

12. Per contra, learned counsel for the respondent submits that there is no illegality in the judgments warranting interference and has prayed for dismissal of the appeal.

13. I have considered the submissions made by learned counsel for the parties.

14. Concededly, sale deeds dated 02.08.2004 and 13.06.2007 are registered sale deeds. The plaintiff pleaded that the same were the result of fraud and deception. It is well settled that fraud is not only to be pleaded but is also to be proved by leading cogent evidence. The plaintiff did not lead any evidence worth its name to prove that the sale deeds had not been executed by him. Both sale deeds bear the photograph of the plaintiff. Further, being registered documents, there is due mention of the plaintiff having appeared before the Sub Registrar. The plaintiff failed to give any details of fraud, impersonation etc. On the other hand, the defendant examined not only the deed writer but also the attesting witness of the sale deed, though the examination of the attesting witness



was not legally required. Both Courts, therefore, rightly held that the plaintiff had failed to establish the plea of fraud.

15. This Court also concurs with the findings recorded by the Courts that the suit was barred by limitation. As noticed earlier, the sale deeds were executed on 02.08.2004 and 13.06.2007. The suit was filed in 2014 (03.09.2014). The plaintiff could not establish the plea of the sale deeds having been fraudulently executed. As a result, his plea of having acquired knowledge about the execution of the sale deeds cannot also be accepted. Since the limitation to challenge the sale deeds was 03 years and the suit was filed much thereafter, both Courts rightly held that the suit was barred by limitation.

16. In view of the aforesaid, this Court finds absolutely no reason to interfere in the well reasoned judgments passed by both Courts.

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

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

20.05.2025

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(VIKRAM AGGARWAL)

JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No