



3. As per the plaintiff, defendant agreed to sell suit land in his favour for valuable consideration of Rs.16,50,000/- and received earnest money of Rs.8,00,000/- on 23.12.2002. Agreement to sell was reduced into writing. The parties agreed to get the sale deed executed on or before 22.11.2005. Plaintiff claims that he remained present in the office of Sub-Registrar on the agreed date, but the defendant failed to execute the sale deed. Plaintiff issued legal notice dated 23.01.2007 through his counsel calling upon defendant to execute the sale deed. Despite having received the same, defendant remained inert. Plaintiff claims that he always remained ready and willing to perform his part of the contract and is entitled for decree of specific performance. Suit was instituted on 09.04.2014.

4. Suit was contested by the defendant. Execution of agreement to sell was denied. Defendant claims that he is small farmer who used to sell his crops on the shop of M/s Bhupender Singh Sewa Singh commission agent. Plaintiff is a partner in the said firm. Agreement to sell is a result of fraud and forgery. The attesting witness are related to the plaintiff. Karnail Singh one of the attesting witnesses happens to be brother-in-law of plaintiff. Defendant claims that the value of land being more than Rs.20 lacs per acre, there was no reason for the defendant to agree to sell the same at a meagre rate of Rs.3 lacs per acre.

5. Suit was put to trial by the Court of First Instance framing following issues:-

“1. Whether the plaintiff is entitled to the decree for specific performance to sell dated 23.12.2002 regarding the suit property?OPP

2. Whether the plaintiff is entitled to the mandatory injunction as prayed for?OPP



3. *Whether the plaintiff is entitled to the permanent injunction as prayed for?OPP.”*
4. *Whether the suit is not maintainable ?OPD*
5. *Whether no cause of action has accrued to the plaintiff to file the present suit?OPD*
6. *Relief”*

6. Plaintiff in order to prove the execution of agreement to sell examined attesting witnesses. The Court of the First Instance while recording finding on issue No.1 held that the agreement to sell propounded by the plaintiff was surrounded by suspicious circumstances. There were interpretations and manipulations in the document which can be seen with naked eyes. Date with respect to execution of the agreement to sell has been interpolated by erasing computer typed digit and replacing the same with digits typed with manual typewriter. The Court of the first instance found that the plaintiff failed to dispel suspicious circumstances. Court disbelieved the agreement to sell and dismissed the suit filed by the plaintiff.

7. Unsuccessful, plaintiff preferred appeal. The appellate Court, though concurred with trial Court and held that there is alteration in the date of agreement to sell but held that the same is not sufficient to dislodge the agreement to sell. The Lower Appellate Court further held that the date might have been erased and altered with the consent of the parties at the time of execution. The Court accordingly reversed the findings recorded by the trial Court and decreed the suit filed by the plaintiff for alternative relief for recovery of Rs.8,00,000/- along with interest.

8. Counsel for the appellant has assailed the findings recorded by the Learned Appellate Court. It has been contended that once the Appellate Court concurred with the findings of the trial court on alteration



alteration in the agreement to sell. It ought not have reversed the judgment and decree passed by trial Court. He contends that the Lower appellate Court erred in decreeing the suit filed by the plaintiff even for the alternative relief. The suit should have been dismissed in toto.

9. Per contra, Mr. Sunny K. Singla, Advocate submits that the defence raised by the defendant is regarding fraud and forgery. He submits that in the entire evidence no suggestion was put in this regard either to the plaintiff or the attesting witnesses when they appeared in the witness box. Thus so far as execution of the agreement to sell is concerned the same is not in dispute. The Lower Court has thus rightly held that merely for the reason that there is simple alteration in the date of agreement to sell, the same cannot be held to be result of fraud and a fabricated document. He refers to the written statement filed by the defendant to submit that no plea regarding forgery in the date of execution of agreement was raised. Further refers to the stamp papers to submit that the same having been purchased on 23.12.2002, and there is no question of date having been altered by the plaintiff as held by the Court of first instance.

10. I have heard learned counsel for the parties and have carefully gone through the records of the case.

11. In the suit for specific performance the plaintiff is under obligation to prove valid execution of agreement to sell. He has to prove that the agreement to sell was validly executed by the defendant in his favour. Dehors the defense of the defendant the onus lies upon the plaintiff to prove the same. In the present case, both the Courts below have concurrently found that the agreement to sell contains interpolations which can be seen with naked eyes. Having seen the original agreement this Court finds no reason



to disagree with the findings recorded by the Courts below.

12. Lower Appellate Court has tried to justify the alteration holding that the same might have been carried out with the consent of the parties. The basis for recording such reason explaining the alteration is missing from the record. There is nothing in the pleadings or in the evidence adduced by the plaintiff to suggest that parties consented any alteration in the agreement to sell. Plaintiff having failed to satisfy the judicial conscience of the Court regarding execution of agreement to sell failed to discharge his onus. The Lower Appellate Court erred in ignoring alteration merely on the basis of surmise. The attempt made by the Lower Appellate Court in making out a case beyond the pleadings is not justified. The conjectural approach of the final Court of fact cannot be sustained.

13. In view thereof, this Court finds that judgment passed by the Lower Appellate Court deserves to be reversed and that of Trial Court needs to be restored.

14. Needless to say, in terms of ratio of law laid down by 5 Judge Bench of Supreme Court in '**Pankajakshi Vs. Chandrika**' (2016) 6 SCC 157, the regular second appeals are to be dealt by this Court as per Section 41 of the Punjab Courts Act and not as per Section 100 of CPC, 1908. Thus, framing of substantial question of law is not necessary.

15. Trite it is that interpretation of the documents from which the rights of the parties emanate forms question of law. The Lower Appellate Court based its findings beyond the record on the basis of surmises. This led to perversity in judgment passed by the Lower Appellate Court. It breeds question of law, which is answered in favour of the appellant.



16. Finding merits in the present appeal, the same is accepted.

23.09.2025

monika

(PANKAJ JAIN)

JUDGE

1. Whether speaking/ reasoned : Yes /No
2. Whether reportable : Yes /No