



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

**(i) RSA-3133-2024 (O&M)**

Rani Kapoor ..... Appellant

Versus

Rajesh Bansal ..... Respondent

**RSA-70-2025 (O&M)**

Joginder Pal and another ..... Appellants

Versus

Rajesh Bansal ..... Respondent

**Decided on : 22.05.2025**

**CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

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Present : Mr. R.S.Mamli, Advocate  
for the appellants.

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**VIKRAM AGGARWAL, J (ORAL)**

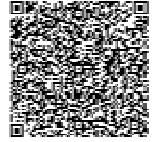
This judgment shall dispose of afore-titled two regular second appeals, both directed against the judgment and decree dated 28.08.2024, passed by the Court of Additional District Judge Yamuna Nagar at Jagadhri, dismissing the appeals preferred by the appellants against the judgment and decree dated 22.03.2018, passed by the Court of Civil Judge (Senior Division), Yamuna Nagar at Jagadhri vide which the suit for possession by way of redemption, filed by respondent Rajesh Bansal was decreed whereas the suit for declaration filed by the appellant Rani Kapoor was dismissed.



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

3. The dispute is with regard to a shop i.e. shop No.2 (fully described in the plaint), situated within the revenue estate at Village Garhi Mundo, Tehsil Jagadhri, District Yamuna Nagar (hereinafter referred to as 'the suit property'). The owner of the shop is one Rajesh Bansal. The first suit was instituted by him for possession of the suit property by way of redemption. The case set up by him was that the suit property had been mortgaged by him to defendant No.1 (Joginder Pal) by way of a registered mortgage deed dated 27.04.1988 for ₹10,000/-. It was averred that he had purchased two shops vide sale deed dated 20.02.1998 both of which had been mortgaged to defendant No.1. However, shop No.1 had been redeemed on 12.04.2002 on payment of the mortgage money. It was averred that he was ready to pay the mortgage amount of ₹5,000/- qua the suit property but since defendant No.1 was not agreeing, the suit was filed.

4. The suit was opposed by the defendants. In the written statement, the stand of defendant No.1 was that initially he was put in possession of both shops in February, 1998 as a tenant at a monthly rent of ₹200/- and that the mortgage transaction was a sham transaction. It was pleaded that the plaintiff had taken a loan of ₹10,000/- from defendant No.1 and had prepared a mortgage deed stating that the same would be cancelled on repayment of the loan. Subsequently, the suit property was sold to the wife of defendant No.1 i.e. Rani Kapoor (defendant No.2) vide sale deed dated 24.08.2008. However, upon presentation for registration, it could not be registered as the parties were asked to obtain a 'no dues certificate' from the Municipal Committee, Jagadhri which was not obtained



by Rajesh Bansal. It was averred that defendant No.2 was in possession of the suit property as its owner, as a result of which no redemption of mortgage could be sought. Defendant No.2 also filed a written statement on similar lines.

5. The second suit was instituted by Rani Kapoor (wife of Joginder Pal) against Rajesh Bansal for declaration that she had become the owner in possession of the suit property on the basis of sale deed dated 24.08.2008. Consequential relief of injunction to direct Rajesh Bansal to get the sale deed registered and also for restraining him from alienating the suit property was sought.

6. Rajesh Bansal opposed the suit by filing written statement wherein certain preliminary objections as regards the suit being barred under Section 41 (h) of the Specific Relief Act, 1963, limitation etc. were raised. It was averred that in fact he had agreed to sell the suit property to defendant No.2 for a sale consideration of ₹4,00,000/-, though sale deed for a sum of ₹2,26,000/- only had been prepared as per the collector rate. However, since the amount was not paid, the sale deed was not registered and was in fact never put up before the Sub Registrar for registration.

7. From the pleadings of the parties in the first suit, the following issues were framed:-

1. Whether the plaintiff is entitled for possession by way of redemption of the shop in question, as prayed for ? OPP
2. Whether the plaintiff is entitled for the relief of permanent injunction, as prayed for ? OPP
3. Whether the suit is not maintainable in the present form ? OPD
4. Whether plaintiff has not come to the court with clean hands and has suppressed the true and material facts from the Court ? OPD



5. Whether the suit is not properly valued for the purposes of court fee and jurisdiction ? OPD
  6. Whether the suit is bad for non joinder of necessary parties ? OPD
  7. Whether plaintiff has no locus standi to file the present suit ? OPD
  8. Whether plaintiff is estopped from filing the present suit by his own act and conduct ? OPD
  9. Relief
8. In the second suit, the following issues were framed:-
1. Whether the plaintiff is entitled to the relief of declaration to the effect that the plaintiff is exclusive owner in possession of the suit property i.e. shop no.2, as prayed for on the grounds mentioned in the plaint ? OPP
  2. Whether the plaintiff is entitled to the consequential relief of mandatory injunction to get the sale deed dated 24.08.2008 registered in favour of plaintiff, as prayed for, on the grounds mentioned in the plaint ? OPP
  3. Whether the plaintiff is entitled to the consequential relief of permanent injunction restraining the defendant from alienating the suit property, as prayed for, on the grounds mentioned in the plaint ? OPP
  4. Whether plaintiff is estopped by his own act and conduct from filing the present suit against the defendant ? OPD
  5. Whether the suit of the plaintiff is highly time barred ? OPD
  6. Relief
9. Parties led their respective evidence.
10. The trial Court while decreeing the suit for possession by way of



redemption, filed by Rajesh Bansal, dismissed the suit for declaration filed by Rani Kapoor. The appeals filed by the appellants against the said decisions were also dismissed leading to the filing of the present two regular second appeals.

11. I have heard learned counsel for the appellants.

12. Sh. R.S.Mamli, learned counsel for the appellants has strenuously urged that both Courts have erred in decreeing the suit filed by Rajesh Bansal and dismissing the suit filed by the present appellants Rani Kapoor and Joginder Pal. He submits that the execution of the mortgage deed had not been proved and that the same was a sham transaction. He further submits that Joginder Pal and Rani Kapoor were in fact tenants under Rajesh Bansal and the suit property had duly been sold to Rani Kapoor by way of sale deed dated 24.08.2008. He submits that the sale deed could not be registered on account of 'no dues certificate' not having been obtained by Rajesh Bansal. Learned counsel submits that the stand taken by Rajesh Bansal that in fact an agreement to sell had been executed and the property had actually been agreed to be sold for ₹4,00,000/- but sale deed was prepared for a lesser amount is not a legal argument and the same could not have been accepted. Learned counsel has referred to the findings recorded by the Courts and has submitted that the same are not sustainable.

13. I have considered the submissions made by learned counsel for the appellants and have also perused the record which was duly requisitioned.

14. As regards the relationship of landlord and tenant alleged by Joginder Pal, the same could not be proved. The oral evidence led in this regard was not found to be trustworthy and rightly so. It was rightly observed that DW3 Satish Kumar had faltered in the cross-examination by stating that no rent had been paid



in his presence. Still further, no rent agreement or rent receipt or proof of payment of rent was produced. Assuming that the tenancy could have been oral as well, at least some proof of payment of rent should have been there. Joginder Pal, while appearing as DW5 admitted that he had no proof as regards the same. It was, therefore, rightly found that no relationship of landlord and tenant existed.

15. As regards the case of Rajesh Bansal that a registered mortgage deed had been executed, the same stood duly proved. The mortgage deed dated 27.04.1998 (Ex.P1) is a registered document. Joginder Pal admitted his signatures and photographs on the same. The oral version of Joginder Pal that it was a sham transaction could not be proved by any evidence worth its name. One shop had already been got redeemed by Rajesh Bansal. The stamp vendor (Suresh Kumar) also appeared as PW2 to prove the purchase of stamp papers for execution of the mortgage deed. It was, therefore, rightly held that the relationship of mortgager and the mortgagee stood proved.

16. The stand of Rani Kapoor that she had purchased the suit property by way of sale deed dated 24.08.2008 could also not be proved. Firstly, the said sale deed was an unregistered document. As per Section 17 of the the Registration Act, 1908, such a document was compulsorily registerable. The version that it could not be registered since 'no dues certificate' was not obtained by Rajesh Bansal went unproved, though, the stand of Rajesh Bansal was that an agreement to sell had been executed for a sum of ₹4,00,000/- but it had been agreed that the sale deed would be executed for a sum of ₹2,26,000/- as per the collector rate was also not too convincing. However, even if that is not considered, the fact of the sale deed having been executed was to be proved by Rani Kapoor as she had instituted



the suit for declaration on the basis of the said sale deed. Her plea of possession having been delivered to her also could not be accepted as the document was not registered. Being an unregistered document, it could not have been considered even for collateral purposes on account of the amendment in Section 53-A of the Transfer of Property Act, 1882.

17. Both Courts examined the matter in detail and returned concurrent findings which are not liable to be disturbed in second appeal.

In view of the above, I do not find any merit in both the appeals and the same are accordingly dismissed.

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

**22.05.2025**  
mamta

**(VIKRAM AGGARWAL)**  
**JUDGE**

Whether speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No