

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****119****RSA-2820-2024 (O&M)****Date of decision: 19.09.2025****Harpreet Singh and another****...Appellant(s)****Vs.****Balwinder Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Nitish Sharma, Advocate with
Mr. Deepinder Singh, Advocate
For the appellants.

NIDHI GUPTA, J.

Plaintiffs are in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby suit of the appellants for Declaration and permanent injunction, has been dismissed by both the Courts below.

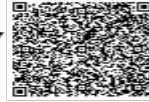
2. Brief facts of the case as pleaded in the plaint are that the plaintiffs are the grandsons of Arjun Singh, who was registered owner of the suit property. Arjun Singh was illiterate, hard of hearing and blind by one eye. The plaintiffs pleaded that the contesting defendant no.1 (hereinafter referred to as "defendant") by playing fraud with Arjun Singh and misrepresentation had taken him to the office of Sub Registrar and had got the executed impugned Transfer Deeds No. 271 and 272 both dated 28.04.2010. Accordingly, a declaration was sought that the said



Deeds are illegal, null and void having no effect upon the rights of the plaintiffs. It was further pleaded that suit property measuring 6 Sarsahi was in possession of the plaintiffs and had been rented out to one Jasbir Singh for Rs.1500 p.m. Despite repeated requests, defendant has refused to acknowledge the rightful ownership of half share of the suit property.

3. Vide impugned judgment and decree dated 31.10.2019 passed by Additional Civil Judge (Senior Division), Rupnagar, suit of the plaintiffs was dismissed. The appeal filed by the plaintiffs was also dismissed with costs by the Additional District Judge, Rupnagar vide judgment and decree dated 20.08.2024. Hence, present Second Appeal by the plaintiffs.

4. It is *inter alia* submitted by learned counsel for the appellant/plaintiffs that the learned Courts below were in error in non-suiting the appellants as they failed to appreciate that at the time of execution of alleged Transfer Deeds, Arjun Singh was more than 90 years old, illiterate, hard of hearing and his eye sight was also weak as he was blind from one eye. It is submitted that property measuring 6 Sarsahi i.e. 7/48th share of 5 Marla comprised in Khata number 1174/1278, Khasra number 46//7/7 Hadbast number 44, Ropar, bearing Municipality number 3297/48C, is in the possession of the plaintiffs. The suit property has been rented out to one Jasbir Singh son of Amar Singh of village Paprala for the monthly rent of Rs. 1500/-. Plaintiffs have requested the defendant to admit their rightful claim to be the owners of the property in dispute upto the extent of half share, but defendant has refused to accede to their

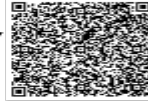


requests. But the Ld. Trial Court has wrongly held that the plaintiffs have failed to prove that they have birth right in the suit property which has been alienated by their grandfather being his self acquired property by virtue of transfer deeds in favor of defendant, and the suit of the plaintiffs was dismissed. Thus, both the Ld Courts below have committed patent legal error in passing the impugned judgment and decree on the basis of conjectures and surmises and as such are unsustainable.

5. Moreover, Arjun Singh had purchased the suit property after selling ancestral property situated in village Goslan, District Ropar. As such, the suit property was ancestral in nature and Arjun Singh could not have transferred it to the defendant. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.

6. No other argument is raised on behalf of the appellant. I have heard Id. Counsel and perused the case file in great detail. I find no merit whatsoever in the submissions made on behalf of the appellant.

7. It is the concurrent finding of the learned Courts below that suit property had devolved upon Arjun Singh from his father Bhan Singh by virtue of registered Will No. 204 dated 02.12.1965 against which Mutation No. 252 Ex.P18 was also entered. As per the said Mutation, the property situated at village Goslan, District Ropar was self acquired property of Arjun Singh and not ancestral property as alleged. These facts were further affirmed from the deposition of PW4 Joginder Singh Special Kanungo.



8. Even Defendant No.1/Balwinder Singh as DW3 had duly proved that nature of suit property in the hands of his father Arjun Singh was self purchased property. DW3 has further deposed that his father being absolute owner in possession of the suit property, out of his free will and in his sound state of mind executed registered Transfer Deed No. 271 dated 28.04.2010 Ex.D2 and Transfer Deed No. 272 dated 28.04.2010 Ex.D3.

9. Defendant has further examined Himmat Singh DW1, attesting witness of the Transfer Deeds who has deposed that Ex.D2 and Ex.D3 were scribed at the instance of Arjun Singh by Advocate Sandeep Kakkar in favour of defendant No.1 on 28.04.2010. Himmat Singh had identified signatures of both persons. PW4 Special Kanungo Joginder Singh tendered into evidence certified copy of Mutation No. 252 Ex.P18 which shows that property of Bhan Singh, father of Arjun Singh devolved upon in favour of his 3 sons, namely Ram Chand, Arjun Singh and Surjan Singh by virtue of registered Will dated 02.12.1965; entry regarding which was made in column No. 13 Ex.P18 qua property of village Goslan, Tehsil Rupnagar. Thus, it was established that suit property in the hands of Arjun Singh was self acquired property being inherited from his father on the basis of a registered Will; and therefore, he could dispose it of as per his free will.

10. Moreover, DW5 Registration Clerk has duly proved the registration of the Transfer Deeds. The Transfer Deeds further stand proven from the evidence of attesting witness DW1 Himmat Singh, Scribe



Sandeep Kakkar, Advocate and Gurnam Singh, Registration Clerk as DW5 in favour of defendant No.1 by Arjun Singh out of his own free will and consent, in sound disposing state of mind.

11. It has also come on record that the plaintiffs alongwith their parents had been disinherited from the estate of Arjun Singh. Plaintiffs were disowned from the entire estate of Arjun Singh by giving publication in the newspaper. Even further, the plaintiffs had failed to produce any evidence on file to prove that Arjun Singh had sold any joint Hindu Family or coparcenary property at any point of time. As such, it could not be held that the suit property was purchased after selling the joint Hindu Family ancestral or coparcenary property. Plaintiffs had even failed to prove fraud as alleged. PW3 Hardeep Singh, son-in-law of Arjun Singh to whom Arjun Singh had expressed desire to execute Will in favour of plaintiffs and defendant in equal share, has nowhere stated in his statement on oath as to how or in what manner, defendant played fraud at the time of execution of Transfer Deeds. Moreover, both DW1 attesting witness and Scribe DW2 Sandeep Kakkar were consistent in their statements regarding execution of transfer deeds. The same were executed in the presence of Kailash Chander, Numberdar. Both witnesses have categorically deposed that impugned Transfer Deeds were scribed by DW2 at the instance of Arjun Singh and after scribing the same, it was read over and explained to Arjun Singh, who after admitting the same to be correct, appended his signatures in Urdu language and affixed his thumb impression on the said transfer deeds. Thereafter, the same were signed by attesting witness



Himmat Singh and Kailash Chander Numberdar and signature of Scribe Sandeep Kakkar was also appended on the Transfer Deeds. Signature of Kailash Chander Numberdar was proved by his grandson DW4 Mohan Singh who had identified the signatures of his grandfather on the Transfer Deed. Defendant No.1 himself appeared as DW3 and deposed regarding execution of Transfer Deeds. Despite lengthy cross-examination, evidence of plaintiff witnesses could not be shaken. The endorsement regarding registration of transfer deeds made by the Sub Registrar on 28.04.2010 shows that the Sub Registrar, Rupnagar read over and explained the contents of the said transfer deeds to executant Arjan Singh in the presence of witnesses Kailash Chander Numberdar and Himmat Singh and after admitting the same to be correct, executant Arjan Singh affixed his thumb impression underneath the said endorsement in the presence of Sub Registrar and attesting witnesses Kailash Chander Numberdar and Himmat Singh. As per section 114 of Evidence Act, it is presumed that the official acts have been regularly performed.

12. Learned counsel for the appellants is unable to dispute or controvert the above said facts and findings.

13. Keeping in view the above overwhelming evidence, no ground is made out to interfere in the concurrent judgments and decrees of the Id. Courts below. The present Regular Second Appeal is hereby **dismissed.**



14. Pending applications, if any, stand disposed of.

19.09.2025

Divyanshi

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

**(NIDHI GUPTA)
JUDGE**