

2025:PHHC:088576



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

**RSA-560-2022 (O&M)
Reserved on : 10.07.2025
Pronounced on : 21.07.2025**

Baldip Kaur & Ors.Appellants

VERSUS

Hardip SinghRespondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Naveen Batra, Advocate for the appellants.

ALKA SARIN, J.

1. The present regular second appeal has been preferred by the defendant-appellants against the judgements and decrees dated 29.02.2016 and 07.09.2021 passed by the Trial Court and the First Appellate Court decreeing the suit of the plaintiff-respondent.

2. The suit for possession was filed by the plaintiff-respondent averring that the suit property was earlier owned by Gian Chand father of the defendant, Faqir Chand. In 1989 Gian Chand had separated the defendant Faqir Chand and had also disinherited him. During his life time Gian Chand executed a valid registered Will dated 31.01.1996 bequeathing the suit property in favour of his wife, Harbans Kaur. As such, after the death of Gian Chand his wife Harbans Kaur became the absolute owner in possession of the suit property. Vide sale deed dated 27.09.2010 Harbans Kaur sold a part of the suit property to the plaintiff-respondent for Rs.4,00,000/- and put him in possession. Faqir Chand raised a dispute with the plaintiff-respondent and even filed a suit against the plaintiff-respondent in which he claimed

himself to be owner in possession of the suit property. According to the plaintiff-respondent, Faqir Chand forcibly dispossessed him from the suit property and occupied it. Hence, the present suit for possession by the plaintiff-respondent. In his written statement Faqir Chand raised certain preliminary objections regarding maintainability, cause of action, etc. On merits it was pleaded that the alleged Will executed by Gian Chand is a forged and fabricated document and that Harbans Kaur never came in possession of the suit property. It was alleged that Faqir Chand was residing in the suit property for the last 15/16 years and had also renovated the house and started a tea stall and sweet shop and that Harbans Kaur had illegally and unlawfully sold the suit property to the plaintiff-respondent without any right or authority.

3. From the pleadings of the parties following issues were framed :
 1. Whether the plaintiff is entitled to the possession of the suit property measuring 2 marla 4 sarhies of land as detained in the head note of the plaint ? OPP
 2. Whether the suit of plaintiff is not maintainable in the present form ? OPD
 3. Whether the suit of plaintiff is not properly verified ? OPD
 4. Whether the plaintiff has no cause of action to file the present suit ? OPD
 5. Relief.

4. Vide judgement and decree dated 29.02.2016 the Trial Court decreed the suit of the plaintiff-respondent. The appeal of the defendant-appellants was also dismissed by the First Appellate Court vide judgement and decree dated 07.09.2021. Hence, the present regular second appeal by the defendant-appellants who are the legal representatives of Faqir Chand, the original defendant.

5. Learned counsel for the defendant-appellants has contended that both the Courts have erred in decreeing the suit of the plaintiff-respondent. It is urged that Harbans Kaur had no right to sell the suit property to the plaintiff-respondent on the basis of a forged and fabricated Will.

6. Heard counsel for the defendant-appellants.

7. In the present case the suit of the plaintiff-respondent has concurrently been decreed by both the Courts. The registered sale deed Ex.P2 in favour of the plaintiff-respondent was duly proved by its attesting witnesses PW3 and PW4. Learned counsel for the defendant-appellants argued that Harbans Kaur sold the suit property on the basis of a forged and fabricated Will cannot be accepted. The mutation of inheritance in favour of Harbans Kaur Ex.PX/7 on the basis of the Will of Gian Chand was never challenged by the defendant-appellants. The Trial Court inter-alia held that *“When the defendant has not challenged/contested the mutation which was sanctioned in favour of Harbans Kaur on the basis of will as executed by Gian Chand, in such a situation, it does not lie in the mouth of the defendant to say at this stage that will executed by Gian Chand in favour of Harbans Kaur was required to be proved by the plaintiff in this case. As the plaintiff*

has purchased the property after duly verifying the revenue record, he is bonafide purchaser and the relief as sought by the plaintiff cannot be refused to him on the basis of argument as advanced by the ld. counsel for the defendant". The First Appellate Court while affirming the findings recorded by the Trial Court held that *"The sale deed was executed on 27.9.2010 much after the entry of mutation in favour of Harbans Kaur. Plaintiff has purchased the property due inquiry and seen the record. As such, it cannot be said that plaintiff has not purchased the property bonafidely. He was a bonafide purchaser for valuable consideration"*. Before this Court also learned counsel for the defendant-appellants has been unable to show how Harbans Kaur was not competent to execute the sale deed in favour of the plaintiff-respondent. Learned counsel for the defendant-appellants is unable to point to any substantial and reliable evidence on the record to dislodge the concurrent findings recorded by both the Courts. In the absence of such reliable evidence, the findings recorded by both the Courts cannot be faulted. No other point was argued.

8. In view of the above, no mistake or error of law or facts can be found with the judgments and decrees passed by both the Courts. No question of law, much less any substantial question of law, arises in the present case. The appeal being devoid of any merit is accordingly dismissed. Pending applications, if any, also stand disposed off.

21.07.2025

Ankur

**(ALKA SARIN)
JUDGE**

NOTE : Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No