



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

**RSA-3562-2023 (O&M)
Decided on : 07.07.2025**

Rehmat

..... Appellant

Versus

Hasanbi

..... Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Argued by : Mr. Rajesh Lamba, Advocate
for the appellant.

VIKRAM AGGARWAL, J (ORAL)

CM-12777-C-2023

Prayer in the present application filed under Section 151 CPC, is for condonation of delay of 37 days in re-filing the accompanying appeal.

Heard.

For the reasons, mentioned in the application which is duly supported by an affidavit, the same is allowed and the delay of 37 days in re-filing the accompanying appeal is condoned.

RSA-3562-2023 (O&M)

Defendant (Rehmat) has instituted the instant regular second appeal. A suit for possession by way of specific performance of agreement to sell dated 25.05.2013 was instituted by the plaintiff (Hasanbi). The suit was partly decreed vide judgment and decree dated 02.05.2017 passed by the Court of Civil Judge



(Senior Division), Mewat and refund of the sale consideration of Rs.14,00,000/- alongwith interest @ 8% per annum was ordered. An appeal was preferred by the plaintiff Hasanbi and cross-objections/appeal was also preferred by the defendant Rehmat. Vide judgment and decree dated 22.05.2023, the Court of learned District Judge, Nuh allowed the appeal filed by the plaintiff and decreed the suit for possession by way of specific performance. The appeal/cross-objections filed by the defendant Rehmat was, however, dismissed.

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

3(i). The plaintiff instituted a suit for possession by way of specific performance of agreement to sell dated 25.05.2013. The case set up was that the defendant had entered into an agreement to sell with the plaintiff with regard to agricultural land measuring 05 kanals 08 marlas (fully described in the plaint), situated within the revenue estate of Village Ferozepur Namak, Tehsil Nuh, District Mewat (hereinafter referred to as 'the suit land') on 25.05.2013. The total sale consideration was fixed as ₹14,00,000/- which was paid at the time of execution of the agreement to sell and receipt was also executed. No last date for registration of sale deed was fixed as it had been agreed by the defendant that the sale deed would be registered on obtaining NOC from the concerned department. It was averred that the plaintiff had been ready and willing to perform her part of the agreement but the defendant had failed to do so. The plaintiff also obtained NOC from the office of the District Town Planner, Mewat on 05.06.2013 and gave intimation about the same to the defendant but the defendant did not come forward to get the sale deed executed. Under the circumstances, the suit was instituted.



4. The suit was opposed by the defendant. In the written statement, certain preliminary objections as regards maintainability, concealment etc. were raised. The execution of the agreement to sell was denied. It was averred that the defendant had executed an agreement to sell qua the suit land with one Asgar Ali on 07.08.2012 and pursuant to the same, sale deed dated 25.06.2013 had been executed in favour of Sharifan wife of Asgar Ali who was his nominee. It was averred that a false and fabricated agreement to sell had been prepared by the plaintiff. It was averred that the plaintiff and her family members had kidnapped the defendant on 17.05.2013 at about 11:00 p.m. and had taken him to a lonely place where they had forcibly obtained his thumb impressions on blank papers. Pursuant to a complaint having been filed under Section 156 (3) of the Code of Criminal Procedure (for short 'Cr.P.C. '), FIR No.267 dated 12.07.2013 was registered under Sections 323, 506, 363, 120-B IPC at Police Station Tauru against the plaintiff. On merits also, a similar stand was taken.

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

1. **Whether the plaintiff is entitled for decree of possession by way of specific performance of contract in respect of suit property ? OPP**
2. **Whether the plaintiff is entitled for decree of permanent injunction restraining defendant from further alienating the suit property ? OPP**
3. **Whether the suit of the plaintiff is not maintainable ? OPD**
4. **Whether the plaintiff has no cause of action and no locus standi to file the present suit ? OPD**
5. **Whether the plaintiff has concealed true and material facts from the court ? OPD**



6. Relief.

6. Parties led their respective evidence.

7. The trial Court partly decreed the suit as has been stated in the opening part of the judgment. The appeal preferred by the plaintiff against the said decision was allowed whereas that preferred by the defendant was dismissed, leading to the filing of the present regular second appeal.

8. I have heard learned counsel for the appellant.

9(i). Sh. Rajesh Lamba, learned counsel representing the appellant has strenuously urged that the execution of the agreement to sell did not stand proved. Pointed reference has been made to the agreement to sell (Ex.P-2). Learned counsel has submitted that strangely, parties to the agreement and the witnesses appended their signatures in blue and black ink. Similarly, witnesses affixed their thumb impressions in blue and black ink. Learned counsel submits that this in itself would be sufficient to prove that the agreement to sell was a forged and fabricated document and that otherwise, there was no occasion for the witnesses and the parties to sign and affix their thumb impressions in ink of different colour. Learned counsel has referred to the agreement to sell and has submitted that even the placement of the typed material, the signatures and the thumb impressions would clearly show that blank papers had been utilized to create the agreement to sell.

9(ii). Learned counsel has referred to the judgments passed by both Courts and has submitted that the same are not sustainable.

10(i). I have considered the submissions made by learned counsel for the



appellant but find the same to be devoid of merit.

10(ii). The agreement to sell was produced on record as Ex.P2. I have perused the said document. No doubt, the placement of the typed material and the signatures etc. is slightly odd. However, this in itself would not be a reason to discard the same. Parties and witnesses signing and affixing thumb impressions in different coloured inks would also not be sufficient to prove that the agreement to sell is a forged and fabricated document. It was the stand of the defendant that the agreement to sell was a forged and fabricated document and, therefore, the onus was on the defendant to prove the same. The defendant took a stand that he had been kidnapped by the plaintiff and her relatives and his thumb impressions had been obtained on blank papers. However, this stand falls to the ground because firstly, the police did not register any FIR. This led the defendant to institute a complaint under Section 156 (3) Cr.P.C. pursuant to which FIR No.267 dated 12.07.2013 was registered under Sections 323, 506, 363, 120-B IPC at Police Station Tauru, against the plaintiff. However, DW1 Subhash Chand, MHC of Police Station Tauru admitted that the said FIR had been cancelled after investigation on 30.10.2013. It, therefore, means that the version of the defendant was found to be false.

10(iii). Since the onus to prove the execution of the agreement to sell was on the plaintiff, the plaintiff led cogent evidence to prove the same which was duly noticed and appreciated by the Courts. The plaintiff examined PW1 Rustam, who was an attesting witness of the agreement to sell and receipt dated 25.05.2013. PW2 Usman, who, apart from being the Special Power of Attorney Holder of the plaintiff was also one of the attesting witnesses, PW3 Irfan, who was the scribe of



the agreement to sell and PW4 Parkash Chand, Stamp Vendor from whom the stamp paper was purchased on 24.05.2013. All these witnesses proved the execution of the agreement to sell dated 25.05.2013. Both Courts examined the evidence led on the record of the case threadbare and returned concurrent findings of fact in this regard.

10(iv). Going further, the plaintiff duly proved on record that she had moved an application in the office of District Town Planner, Mewat for transfer of the suit land by the defendant in the name of the plaintiff and permission was granted on 05.06.2013. The witnesses also proved the execution of the agreement to sell and receipt of Rs.14,00,000/- by the defendant. It also came on record that the defendant had intentionally alienated the suit land vide sale deed dated 25.06.2013. The First Appellate Court noticed that when the suit for possession by way of specific performance was filed by the plaintiff on 21.06.2013, notice of the suit and stay application was issued to the defendant for 26.06.2013. Summons were returned with the report that when the process server went to the defendant for service of summons on 22.06.2013, he refused to receive the same. He thereafter executed the sale deed dated 25.06.2013 in favour of Sharifan before the date fixed in the case which was 26.06.2013. He did appear in the Court on 26.06.2013 but did not inform the Court that he had already alienated the suit land. The trial Court passed an order directing the parties to maintain status quo. Even then, it was only in the written statement which was filed on 05.09.2013 that the defendant disclosed the factum of his having executed a sale deed on 25.06.2013 in favour of Sharifan. Neither did the defendant prove the execution of agreement to sell before the Court nor did he produce the sale deed in evidence. Only a



photocopy was produced from which it transpired that the sale consideration was Rs.30,59,583/-, as regards the payment of which, no evidence was produced. Certain other contradictions were also noticed by the Courts.

11. No other argument has been raised.

12. The First Appellate Court, having examined the entire evidence in detail, decreed the suit for specific performance. I do not find any illegality in the said findings warranting interference by this Court.

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

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

07.07.2025

mamta

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No