



124

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

**RSA-777-2022 (O&M)
Reserved on : 08.09.2025
Date of Decision : 09.09.2025**

Suresh Goel ... Appellant(s)

VERSUS

Neeraj Sharma & Ors ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Sandeep Panwar, Advocate for the appellant.
(through hybrid mode)

ALKA SARIN, J.

1. The present regular second appeal has been preferred by the plaintiff-appellant challenging concurrent findings returned by the Trial Court vide judgment and decree dated 31.05.2018 and the First Appellate Court vide judgment and decree dated 16.12.2019 dismissing his suit.

2. Briefly, the facts relevant to the present *lis* are that the plaintiff-appellant filed a suit for mandatory injunction directing the defendant-respondent Nos.1 and 2 to execute the sale deed based on an agreement to sell dated 24.12.2008 (Ex.P1). The case set up by the plaintiff-appellant was that he had entered into an agreement to sell with the defendant-respondent Nos.1 and 2 on 24.12.2008 for a total sale consideration of ₹90,00,000/- in respect of plot No.567, Sector-21, Panchkula in the presence of witnesses. It was pleaded that an amount of ₹4,00,000/- was paid as earnest money on 24.12.2008 and initially 28.02.2009 was fixed as the execution date. However,

the sale deed was not executed on 28.02.2009 and a further amount of ₹20,00,000/- was paid on 03.04.2009 as part payment and thereafter the defendant-respondent Nos.1 and 2 were requested to execute the sale deed but they kept postponing the matter. It was further the case that in the meanwhile the defendant-respondent Nos.1 and 2 in collusion with the defendant-respondent Nos.3 and 4 further executed an agreement to sell and applied for transfer permission, but the same could not be sanctioned as earlier transfer permission was applied in the name of the plaintiff-appellant in HUDA. It was further the pleaded case that the plaintiff-appellant was pressurized by the defendant-respondent Nos.1 to 4 to transfer the plot in favour of the defendant-respondent Nos.3 and 4, however, the plaintiff-appellant refused to the same. It was further the case set up that the defendant-respondent Nos.1, 2 and 5 alongwith 7-8 unidentified persons came to the office of the plaintiff-appellant and started beating him and also threatened that the plaintiff-appellant must get the transfer permission cancelled and they forcibly took the signature of the plaintiff-appellant on some written papers and they also forcibly took him to the Tehsil office and got his signatures on some blank papers. It was further the case that a police complaint was filed by the plaintiff-appellant and FIR No.106 was registered on 10.03.2009 at Police Station Sector-5, Panchkula. Thereafter, an FIR was also got registered by the defendant-respondent No.5 against the plaintiff-appellant being FIR No.107 dated 10.03.2009. It was further the pleaded case that the defendant-respondent No.3 got a draft of ₹20,00,000/- prepared in name of the defendant-respondent Nos.1 and 2 and after seeing the draft the plaintiff-appellant came to know that on 23.01.2009 the defendant-respondent Nos.1

and 2 had entered into an agreement with the defendant-respondent Nos.3 and 4. It was further the pleaded case that ₹20,00,000/- was given in cash to the defendant-respondent Nos.1 and 2 by the plaintiff-appellant and thereafter the date of execution was extended to 08.04.2009. It was further averred in the plaint that under pressure, the signatures were put by the plaintiff-appellant in the Registry.

3. On notice the defendant-respondent Nos.3 and 4 filed a joint written statement stating therein that the suit was not maintainable. It was the stand taken that the plaintiff-appellant himself was the attesting witness to the sale deed dated 22.04.2009 in favour of the defendant-respondent Nos.3 and 4. All other allegations made in the plaint were denied. The defendant-respondent No.5 also filed his separate written statement. The defendant-respondent Nos.1 and 2 did not file their written statement and adopted that of the defendant-respondent Nos.3 to 5.

4. On the basis of the pleadings of the parties, the following issues were framed :

1. Whether the plaintiff-appellant is entitled for a decree for mandatory injunction as prayed for ? OPP
2. Whether the suit of the plaintiff-appellant is not maintainable in the present form and the plaintiff-appellant has no locus standi to file the same ? OPD
3. Whether the plaintiff-appellant has no cause of action to file the present suit ? OPD
4. Whether the plaintiff-appellant is estopped from his own act and conduct from filing of present suit ? OPD

5. Relief.

5. The Trial Court dismissed the suit vide judgment and decree dated 31.05.2018. Aggrieved by the same an appeal was preferred by the plaintiff-appellant which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 16.12.2019. Hence, the present regular second appeal.

6. Learned counsel for the plaintiff-appellant would contend that both the Courts have erred in dismissing the suit. It is urged that a total fraud has been played on the plaintiff-appellant and that he had made a payment of ₹24,00,000/- and therefore the suit deserved to be decreed.

7. I have heard the learned counsel for the plaintiff-appellant.

8. In the present case, both the Courts concurrently found that instead of filing a suit for specific performance the plaintiff-appellant had filed a suit for mandatory injunction which itself was not maintainable. Further still, admittedly, even as per the plaint a sale deed dated 22.04.2009 was executed by the defendant-respondent Nos.1 and 2 in favour of the defendant-respondent Nos.3 and 4 which had not been challenged by the plaintiff-appellant. It was further the finding returned that the sole basis for filing the present suit was the alleged agreement to sell in favour of the plaintiff-appellant (Ex.P1). The execution of the said agreement was not proved as except for the self-serving statement of the plaintiff-appellant, no other evidence was led. The agreement to sell itself had not been attested by any witness. Further still, the plaintiff-appellant himself was the attesting witness to the sale deed executed by the defendant-respondent Nos.1 and 2 in favour of the defendant-respondent Nos.3 and 4. Even today the learned counsel for

the plaintiff-appellant is unable to explain as to how the suit for mandatory injunction was maintainable for directing the defendant-respondent Nos.1 and 2 to execute a sale deed in his favour on the basis of the agreement to sell dated 24.12.2008. There is no explanation forthcoming as to why the sale deed on which the plaintiff-appellant was an attesting witness had not been challenged in the present suit.

9. In view of the above, no fault 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.

09.09.2025
Yogesh Sharma

(**ALKA SARIN**)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO