

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****109****RSA-2443-2019 (O&M)****Date of decision: 10.07.2025****Ajaib Singh****...Appellant(s)****Vs.****Kuldeep Kaur and another****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Mohit Garg, Advocate for the appellant.

**NIDHI GUPTA, J.**

Present second appeal has been filed by the plaintiff against the concurrent judgments and decrees of the learned Courts below, whereby the suit for joint possession filed by the appellant, has been dismissed with costs by both the Courts below.

2. Brief facts of the case are that the appellant/plaintiff had filed a suit for joint possession of suit land measuring 13K 6M by way of specific performance of Agreement to Sell dated 29.03.2011 Ex.P1 allegedly executed by defendants in favour of the plaintiff; or in the alternative suit for recovery of Rs.20 lacs.

3. It was the pleaded case of the appellant that on 29.03.2011, the defendants had entered into an Agreement to Sell qua the suit land measuring 13K 6M as per their respective shares. Sale price was alleged to have been settled @ Rs.15,70,000/- per acre. It was pleaded that defendants had received Rs. 20 lacs in cash from the plaintiff as earnest money and had agreed to execute the Sale Deed by 20.04.2011. It was



further agreed between the parties that remaining sale consideration was to be paid on 20.04.2011 when possession was to be delivered. As per the plaintiff, he remained present in office of Sub Registrar to perform his part of Agreement however, the defendants remained absent. As such, present suit was filed on 28.04.2011.

4. The case set up by the plaintiff was controverted and denied by the defendants by submitting that in order to withdraw Rs.5,000/- deposited by Avtar Singh/ husband of defendant No.1 in favour of their minor daughter defendant no.2, the defendants had contacted Sukhwinder Singh, who had obtained thumb impression of defendant No.1 and signature of defendant No.2 by saying that same are required to complete formalities. Said Sukhwinder Singh had also taken joint photographs of the defendants ostensibly to affix upon the duplicate passbook to be issued. Thumb impressions and signatures were also obtained by Sukhwinder Singh on some other papers. Defendant No.1 being an illiterate lady and defendant No.2 being minor at that time did not realise that they were being duped by Sukhwinder Singh in connivance with the plaintiff. Sukhwinder Singh is real nephew of the plaintiff-Ajaib Singh. The plaintiff is uncle of the deceased-Avtar Singh, husband of defendant No.1. It was also pleaded that the plaintiff is not in a position to pay huge amount of earnest money as alleged by him; plaintiff wants to grab the property of illiterate defendants in connivance with nephew Sukhwinder Singh; plaintiff has already been convicted in a murder case and there are other criminal cases pending against him; and



that no Agreement to Sell was ever executed by the defendants in favour of the plaintiff.

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

*1. Whether the defendants executed an agreement to sell dated 29.3.2011 in favour of the plaintiff with respect to the suit land and obtained 20,00,000/- as earnest money? OPP*

*2. Whether the plaintiff is entitled to the relief of possession or joint possession by way of specific performance of the agreement to sell? OPP*

*3. Whether the plaintiff remained ready and willing to perform his part of the contract? OPP*

*4. Whether in the alternative the plaintiff is entitled to recovery of 20,00,000/- along with interest as prayed for? OPP*

*5. Whether the suit of the plaintiff is not maintainable in the present form? OPD*

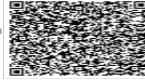
*6. Whether this Court has no jurisdiction to try with the present case? OPD*

*7. Whether the plaintiff has got no cause of action to file the present suit? OPD*

*8. Whether the plaintiff has not come to the Court with clean hands? OPD*

*9. Relief.*

6. vide judgment and decree dated 17.12.2015, the learned Civil Judge (Senior Division) dismissed the suit of the plaintiff with costs. The appeal filed by the plaintiff was also dismissed by learned Additional



District Judge, Sangrur vide judgment and decree dated 17.09.2018.

Hence, the present second appeal.

7. It is submitted by learned counsel for the appellant that the plaintiff has been wrongly non-suited as the learned Courts below have failed to appreciate that it was the pleaded case of the defendant No.1 that she had to take out Rs.5,000/- from the Bank. However, the learned Courts below have failed to appreciate that merely to withdraw Rs.5,000/- from the Bank, defendants would not buy stamp papers of Rs.2,000/-. It is reiterated that for withdrawal of only Rs.5,000/- no one will purchase stamp papers worth Rs.2,000/-. Moreover, defendant No.1 did not appear in the witness box. As such, adverse inference is liable to be drawn against the defendants. The impugned judgments and decrees of the learned Courts below are based on conjectures and surmises and cannot be sustained. 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.

8. No other argument is raised on behalf of the appellant.

9. I have heard Id. Counsel and perused the case file in great detail. I find no merit in the submissions made on behalf of the plaintiff.

10. It has been concurrently found by the learned Courts below that defendant No.1 had appended her thumb impressions and defendant No.2 had affixed her signatures on the blank Stamp papers at the behest of Sukhwinder Singh and plaintiff Ajaib Singh. Said thumb impression and signatures were taken by the plaintiff on the first page of the stamp paper,



which was then converted/made into the last page of the Agreement to Sell. It is for this reason that the first page of the stamp paper forms the last page of Agreement Ex.P1. Clearly therefore, the Agreement to Sell in question Ex.P1 was fraudulently made by the plaintiff. Furthermore, the typed material is above the thumb impressions/signatures of the defendants which further establishes this fact that the thumb impressions were affixed upon the blank paper and typing was done subsequently. It is also to be noticed that the signatures of the parties are not affixed in the proper places in the Agreement, which again puts the said Agreement under cloud. Even further, DW4 handwriting expert had compared the document in detail and given a finding that Agreement to Sell is a forged document. No evidence to the contrary was led by the plaintiff.

11. Furthermore, although it has been argued by learned counsel for the plaintiff that stamp paper was purchased by the defendant, however, evidence on file indicates that in actual fact, stamp paper was purchased by the plaintiff on 28.3.2011. Accordingly, in his evidence, the plaintiff has not denied that stamp paper was not purchased by the defendants. On being confronted with this finding as recorded in impugned judgments and decrees that the plaintiff had purchased the stamp papers, learned counsel for the appellant was unable to deny the same. Plaintiff is also unable to explain as to why stamp papers were not purchased in the name of defendants. Learned counsel for the plaintiff is also unable to explain as to why stamp papers were purchased at Longowal when the Agreement is stated to have been scribed at Sangrur.



12. It is also important to note that plaintiff had failed to produce the most important witness of Agreement to Sell, who is the Scribe DW3 Gurdev Singh Sandhu, Advocate. The said witness has been examined by the defendants, and he has categorically stated that he had given his signature on Ex.P1 (wrongly mentioned as Ex.P11) at the behest of Sh. R.S.Mahal, Advocate with whom DW3 was working. DW3 has further stated that parties to the Agreement were not present before him, nor was any earnest money paid in his presence; that defendants were not present at the time when he had appended his signature on the Agreement to Sell. DW3 further proved his statement Ex.D6 recorded before the police authorities, where also he had not supported the case of the plaintiff.

13. Plaintiff has also been unable to explain the source of Rs.20 lacs allegedly paid by him in cash as earnest money.

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

15. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

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

**10.07.2025**

Divyanshi

**(NIDHI GUPTA)  
JUDGE**

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