



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

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**RSA-1045-2022 (O&M)
Date of decision : 26.03.2025**

Rajwinder Kaur

..... Appellant

versus

Pritam Singh

..... Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Tarun Singla, Advocate
for the appellant.

PANKAJ JAIN, J. (Oral)

1. Plaintiff is in second appeal.
2. Plaintiff filed suit seeking decree of permanent injunction to the effect that the defendant be restrained from interfering with the possession of the plaintiff and from taking forcible and illegal possession of plot measuring 100 sq. yards as detailed out in the headnote of the plaint.
3. Plaintiff claimed to be owner in possession of the suit property on the strength of registered sale deed dated 04.04.2016 executed by her father Kharaiti Lal s/o Mangal Dass. Plaintiff claims that without there being any right, title or interest vested in the defendant, he is trying to interfere in the peaceful possession of the plaintiff. Earlier also, the plaintiff filed suit to the same effect. During the pendency of the suit, husband of the plaintiff fell ill and remained hospitalized due to which she could not pursue the same. The same was dismissed in default vide order dated 28.09.2010.

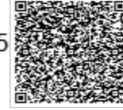


4. Suit was resisted by the defendant. Defendant denied the title of the plaintiff. Title of Kharaiti Lal s/o Mangal Dass father of the defendant was admitted. It was claimed that Kharaiti Lal purchased the suit property from one Prem Chand. Kharaiti Lal father of the defendant died on 23.09.1996. Sale deed propounded by the plaintiff is result of impersonation of Kharaiti Lal.

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

- “1. Whether the plaintiff is entitled to permanent injunction as prayed for?OPP
2. Whether the suit of the plaintiff is not maintainable in the present form?OPD
3. Whether the plaintiff has not come to the court with clean hands?OPD
4. Whether this court has no jurisdiction to try and decide the present suit?OPD
- 4A. Whether the registered title deed no.32 dated 04.04.2016 is genuine one and not procured by impersonation and liable to be declared as null and void?OPD
- 4B. Whether the suit is not triable by this court as the same is based on civil suit no.659 dated 30.08.2008 which was decided on 28.09.2010 under order 17 Rule 3 read with order 9 Rule 8,9 CPC, decided by Sh.KK Singla, PCS, Ld.Addl. Civil Judge (Senior Division), Bathinda?OPD
5. Relief.”

6. Court of the first instance found that the version of the plaintiff is that she has become owner in possession of the suit property on the strength of sale deed bearing vasika No.32 dated 04.04.2006 Ex. P4 executed in her favour by Kharaiti Lal s/o Mangal Dass, whereas defendant claims that Kharaiti Lal purchased suit property on the basis of sale deed bearing document No.948 dated 19.05.1978 Ex.D1 (Ex.DA). Copy of the death certificate of Kharaiti Lal has been



produced on record as Ex.D2. As per which, Kharaiti Lal died on 23.09.1996. FIR regarding impersonation was proved on record as Ex.DB. The Court of the first instance thus, found that Kharaiti Lal having died on 23.09.1996 as per Ex.D2, sale deed propounded by the plaintiff being result of impersonation cannot be relied upon to decree the suit filed by the plaintiff. Trial Court resultantly dismissed the suit.

7. Dissatisfied plaintiff preferred appeal. Lower Appellate Court affirmed the findings recorded by the Court of the first instance and dismissed the appeal filed by the plaintiff.

8. Counsel for the appellant-plaintiff while assailing the impugned judgment and decree passed by the Courts below submits that findings recorded by the Courts below are mere conjectural. He submits that the death of Kharaiti Lal could not be proved as DW-2 Parvesh Kumar in his cross examination admitted that he does not know at which place Kharaiti Lal has died.

9. I have heard counsel for the appellant and have carefully gone through the records of the case.

10. The controversy involved is purely factual and is quite narrow. Ownership of Kharaiti Lal is not in dispute. Plaintiff claims to have purchased the suit property from Kharaiti Lal vide sale deed dated 04.04.2006 Ex.P4. Defendant has produced death certificate Ex.D2 to demonstrate that Kharaiti Lal died on 23.09.1996 and thus, there is no question of him having executed sale deed in favour of the plaintiff on 04.04.2006. Plaintiff examined Jit Singh PW-6. He admitted in cross examination that he has not seen Kharaiti Lal after 1994-1995. The other witness Gagandeep Singh who appeared as PW-4 feigned



ignorance about the same in favour of the plaintiff. Attesting witnesses to the sale deed have not been examined by the plaintiff. Plaintiff failed to prove signatures of Kharaiti Lal on the sale deed. No effort was made to examine any handwriting expert or to get the signatures of the Kharaiti Lal on the sale deed compared with the admitted signatures of Kharaiti Lal. On the other hand, defendant proved on record death certificate as per which Kharaiti Lal died on 23.09.1996.

11. Pure finding of facts have been recorded by the Courts below. Prior to the instant suit, plaintiff filed a suit to the same effect. The same got dismissed for non-prosecution. Instant suit seems to have been filed primarily with an intent to find breather in the criminal prosecution that plaintiff is facing in the FIR No.15 dated 17.01.2013 Ex.D-9.

12. Finding no merits in the present appeal, the same is ordered to be dismissed.

13. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

26.03.2025

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No