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

**RSA-752-2023 (O&M)**

**Date of Decision : 29.08.2025**

GIAN SINGH

... Appellant

VERSUS

NAIB SINGH AND ANR

... Respondents

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Barjinder Singh, Advocate for the appellant.

**ALKA SARIN, J. (ORAL)**

1. The present appeal has been preferred by the plaintiff-appellant challenging the judgment and decree dated 30.10.2019 passed by the Trial Court and the judgment and decree dated 07.12.2022 passed by the First Appellant Court.

2. Briefly the facts relevant to the present *lis* are that the plaintiff-appellant filed a suit for declaration averring therein that the defendant-respondent No.2 agreed to sell the suit property to the defendant-respondent No.1 – Naib Singh – vide agreement to sell dated 14.06.2005 @ ₹910 per square yards and received a sum of ₹20,000 (rupees twenty thousand) as earnest money. The date for the execution and registration of the sale deed was fixed on or before 13.09.2005 after making the payment of remaining sale consideration. Further condition stated in the agreement to sell dated 14.06.2005 was that the defendant-respondent No.1 has right to get the sale deed executed and registered in his favour or in favour of any other person of

his choice. On 13.09.2005 the defendant-respondent No.2 failed to appear before the Office of Sub-Registrar for execution and registration of the sale deed and as such the defendant-respondent No.1 got his present marked. Subsequently, the defendant-respondent No.1 – Naib Singh – filed a suit for specific performance of the agreement to sell dated 14.06.2005. The defendant-respondent No.2 appeared and got his statement recorded and the sale deed was executed in favour of the plaintiff therein on 03.03.2006. It was further the case that as per the compromise dated 24.12.2005 the defendant-respondent No.1 agreed to withdraw his civil suit and received ₹22,000 (rupees twenty-two thousand) from the plaintiff-appellant herein which is written as receipt on the back side of the agreement to sell dated 14.06.2005. However, he intentionally continued with the suit and the plaintiff-appellant herein was impleaded as defendant No.2 in the said suit for specific performance. It was further the case set up by the plaintiff-appellant that he appeared in the said suit for specific performance, however, on the assurance that the suit would be withdrawn, he did not further appear in the matter and the suit was decided *ex parte* vide judgment and decree dated 23.04.2012. It was still further the case that after the execution of the sale deed, mutation was also entered in the name of the plaintiff-appellant. It was only when the plaintiff-appellant wanted to alienate the property, he came to know about the *ex parte* judgment and decree dated 23.04.2012. It was also the case set up that the plaintiff-appellant was in exclusive possession of the suit property. Hence the present suit.

3. On notice, the defendant-respondent No.1 filed written statement raising various preliminary objections. On merits it was stated that the defendant-respondent No.2 had agreed to sell the land to the defendant-respondent No.1 vide agreement to sell dated 14.06.2005 and had also received ₹20,000 (rupees twenty thousand) as earnest money however since he failed to perform his part of the contract, the civil suit was filed. It was further the stand taken that if the entire facts were within the knowledge of the plaintiff-appellant, he ought to have contested the suit. The defendant-respondent No.1 claimed to be in possession of the suit property. Written statement was also filed by the defendant-respondent No.2 admitting the factum of entering into an agreement to sell with the defendant-respondent No.1 and the suit for specific performance being filed. It was further the stand taken that a written compromise had been entered into between the parties and the defendant-respondent No.2 executed the sale deed in favour of the plaintiff-appellant which was within the knowledge of the defendant-respondent No.1 and he was to withdraw the suit however he obtained an *ex parte* judgment and decree.

4. Replication was filed. On the basis of the pleadings of the parties the following issues were framed :

1. Whether plaintiff is entitled for declaration as prayed for in the head note of the plaint ? OPP
2. Whether plaintiff is entitled for the consequential relief of permanent injunction as prayed for in the head note of the plaint ? OPP

3. Whether suit is not maintainable in the present form ? OPD

4. Whether the suit of plaintiff is time barred ? OPD

5. Whether plaintiff has got no cause of action ? OPD

6. Whether the plaintiff has got no locus standi to file the present suit ? OPD

7. Relief.

5. The Trial Court vide judgment and decree dated 30.10.2019 dismissed the suit of the plaintiff-appellant. Aggrieved by the same an appeal was preferred which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 07.12.2022. Hence, the present regular second appeal by the plaintiff-appellant.

6. Learned counsel for the plaintiff-appellant would contend that this was a clear case of fraud and therefore a separate suit was maintainable to challenge the same. It is further the contention of the learned counsel that a compromise had been entered into between the parties which was not honoured by the defendant-respondent No.1 and he did not withdraw his suit for specific performance. Learned counsel would further contend that fraud committed by the defendant-respondent No.1 is apparent from the compromise which has been endorsed on the back side of the sale agreement (Ex.P10).

7. Heard.

8. In the present case the only ground urged is that fraud had been committed by the defendant-respondent No.1. It is an admitted fact that the

plaintiff-appellant herein was well aware of the suit filed by the defendant-respondent No.1 for specific performance of the agreement to sell. It was further the case set up that on good faith and on the assurance of the defendant-respondent No.1, the plaintiff-appellant did not appear in the said suit. It is unbelievable that the plaintiff-appellant thereafter did not even bother to find out as to whether the suit had actually been withdrawn or that the defendant-respondent No.1 was continuing with the same. Any prudent man would have followed up to see that the compromise, if any, was given effect to. Further still, the ingredients of fraud are to be pleaded in the plaint and have to be proved in accordance with law. In the present case both the Courts have concurrently held that the plaintiff-appellant had failed to plead and prove the fraud which he alleges was played upon him. Learned counsel for the plaintiff-appellant has not been able to convince this Court by pointing out to any cogent evidence on the record that any fraud was committed with the plaintiff-appellant.

9. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

**29.08.2025**  
*Aman Jain*

**(ALKA SARIN)**  
**JUDGE**

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