



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Reserved on: September 16, 2025

Pronounced on: September 22, 2025

(i) **RSA No.1022 of 2012 (O&M)**
Bhushan Sehgal and another **. . . . Appellants**

Vs.

Pushpa Devi Respondent

* * * *

(ii) **RSA No.1583 of 2012 (O&M)**
Bhushan Sehgal **. . . . Appellant**

Vs.

Pushpa Devi and another Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:- Mr. Chetan Mittal, Sr. Advocate with
 Mr. Himanshu Gupta, Advocate for the appellants.

Mr. Vikas Singh and Ms. Anamika Sheoran, Advocates
 for respondent No.1 in both the appeals.

Mr. Ashish Verma, Advocate
 for respondent No.2 in RSA No.1583 of 2012.

Present at the time of pronouncement : None

DEEPAK GUPTA, J.

Background: These two appeals arise from two civil suits concerning the same property—House No. 3180/1, Sector 41D, Chandigarh—between siblings, Bhushan Sehgal (appellant) and Smt. Pushpa Devi (respondent). Smt. Neelam Sehgal is the wife of Bhushan Sahgal i.e. the sister-in-law of Smt. Pushpa Devi. The trial Court dismissed both suits by common judgment dated 24.01.2009. Both parties filed separate appeals. The First Appellate Court, by common judgment dated 06.01.2012, partly allowed Smt. Pushpa Devi's appeal, while dismissing Bhushan Sehgal's appeal. Aggrieved, Bhushan Sehgal has preferred the present two appeals.

2. **Admitted facts** are as under:

- The house in dispute was allotted under the discretionary quota by Chandigarh Housing Board to Smt. Kaushalya Devi via allotment letter dated 21.01.1991 (Ex.D1), with possession delivered on 25.01.1991.
- In November 2000, Smt. Kaushalya Devi applied for transfer of the dwelling unit to her daughter Smt. Pushpa Devi under the blood relation policy. The Chandigarh Housing Board issued a transfer letter dated 23.01.2001 (Ex.P1).
- Disputes arose after Kaushalya Devi's death on 22.02.2002. Bhushan Sehgal contended that the transfer was illegal, while Smt. Pushpa Devi claimed possession and mesne profit.

3. In **Civil Suit No. 68 of 2004**, Smt. Pushpa Devi claimed that defendants Bhushan Sehgal and his wife Smt. Neelam Sehgal occupied the house in dispute until March 2000, after which they moved to university accommodation at Punjab University, Chandigarh. Following the transfer of the house by the Chandigarh Housing Board in her name, the plaintiff alleged that the defendants threatened to oust her and her brother. It was further contended that on 01.07.2002, the defendants forcibly took possession of the drawing-cum-dining room, one bedroom, and kitchen, relocating the plaintiff's belongings to a single room. Based on these allegations, the plaintiff sought a decree for possession of the portion occupied by the defendants and recovery of ₹57,000 as mesne profit at ₹3,000 per month from 01.07.2002 to 31.01.2004.

4. The defendants, however, contended that they had been paying instalments to the Chandigarh Housing Board since the allotment in January 1991 from a bank account in Bhushan Sehgal's name. They claimed various documents, including ration card, voter ID, bank accounts, and utility connections, were registered in their name at the house, and alleged that the plaintiff obtained the transfer through fraudulent means. They maintained

that possession of the house had always been joint and prayed for dismissal of the suit.

5. In **Civil Suit No. 250 of 2005**, Bhushan Sehgal sought a declaration that he was the sole owner in possession of the house and contended that the transfer letter dated 23.01.2001 in favour of Smt. Pushpa Devi was illegal and void. He also sought a mandatory injunction directing her to hand over the portion of the house under her occupation.

6. The suit was contested by Smt. Pushpa Devi on same pleas as taken in her plaint of earlier suit.

7. Chandigarh Housing Board, in its separate written statement, admitted that the transfer had occurred erroneously under the blood relation policy.

8. **Trial Court Findings:** Both suits were consolidated by order dated 25.05.2008. After framing issues and taking evidence, the trial Court held that the transfer letter was contrary to the terms of the allotment and dismissed Pushpa Devi's suit. Regarding Bhushan Sehgal's suit, the Court observed that the issue of cancellation of the transfer letter was pending before the Chandigarh Housing Board, rendering his suit premature, and it too was dismissed.

9. **Findings by the First Appellate Court:** Both parties filed separate appeals. The First Appellate Court, after reappraising the evidence, held that although the transfer letter was technically against the allotment terms, the Chandigarh Housing Board had relaxed these terms under its regulatory powers. The Court also noted that the trial Court had not addressed the issue of title. Consequently, Pushpa Devi's appeal was partly allowed, granting her possession of the portion occupied by Bhushan Sehgal, while her claim for mesne profit was rejected. Bhushan Sehgal's appeal against the dismissal of his suit was dismissed.

10. Against the aforesaid common judgment dated 06.01.2012 of the First Appellate Court, the present two regular second appeals have been filed by Bhushan Sehgal.

11. **Contentions before this court:** Assailing the findings of the First Appellate Court, it is contended by learned Senior counsel appearing for the appellants that transfer letter was issued contrary to the terms of the allotment letter. There was no finding that appellants had ever parted with possession; or that they had taken forcible possession of the portion under their occupation. Payments toward instalments were made by him, and the Board's relaxation powers (Regulation 50) could not validate an illegal transfer. The Will dated 14.07.1999, relied upon by Smt. Pushpa Devi, was never produced or proved.

12. *Per contra*, Ld. Counsel for respondent Smt. Pushpa Devi argues that Clause 12 of the allotment letter restricts only the transfer of ownership, not possessory rights. Besides, the Will dated 14.07.1999 of Smt. Kaushalya confirmed the rights of respondent in the suit property.

13. Learned counsel for the respondent further contended that Bhushan Sehgal had previously filed a suit challenging the registered Will dated 14.07.1999 executed by Smt. Kaushalya Devi in favour of Pushpa Devi, under which the house in dispute was bequeathed. That suit sought a declaration that the Will was forged and fabricated. The trial Court dismissed the suit on 11.10.2017, and the Appellate Court upheld the decision on 26.07.2023. No further appeal was filed, and it was argued that the validity of the Will has thus attained finality, warranting dismissal of the present appeals.

14. In response, learned senior counsel for the appellants argued that Smt. Pushpa Devi cannot be allowed to approbate and reprobate by relying on the Will referred in her reply to the show-cause notice, particularly when she never produced the original Will at any stage. It was further contended that Bhushan Sehgal's earlier suit was dismissed because he could not

prove fraud, as the Will propounded by Smt. Pushpa Devi was never produced in Court. Since the original Will was neither produced nor supported by her testimony, the validity of the Will cannot be deemed established. On this basis, counsel reiterated the prayer for acceptance of the present appeals.

15. The Court has carefully considered the submissions of both parties.

16. **Analysis by this Court:** The validity of the transfer letter dated 23.01.2001 (Ex.P1) hinges on the interpretation of the allotment conditions. Clause 12 of the allotment letter dated 21.01.1991 (Ex.D1) states that the allottee shall not sell, alienate, transfer, or part with possession of the property until either the expiry of the hire-purchase period, or a period of 10 years from actual possession, whichever is later, subject to limited exceptions such as leasing for a term not exceeding five years or mortgaging to raise loans for payment of the house price.

17. It is undisputed that possession was delivered to Smt. Kaushalya Devi on 25.01.1991, making the 10-year period expire on 25.01.2001. The transfer application was filed on 09.11.2000, and the transfer letter was issued on 23.01.2001, i.e., before the completion of 10 years and before the allottee had become the owner. Even assuming the issuance date is considered, the transfer occurred prior to the expiry of the requisite period. Clause 12 clearly requires that transfer may occur only after the later of the two periods (ownership or 10 years). Since the allottee had not acquired ownership at that time, the transfer could not lawfully be effected. Accordingly, the trial Court rightly concluded that the plaintiff's claim based on the transfer letter was baseless.

18. The First Appellate Court's finding that the Chandigarh Housing Board had exercised relaxation under Regulation 50 is also without merit. Regulation 50 empowers the Board to relax provisions only in exceptional circumstances to be recorded in writing. In the present case, no reasons were

recorded in the transfer letter for any relaxation. Therefore, the contention that the transfer letter was valid is wholly without merit.

19. The respondent's argument that possessory rights were unrestricted is untenable, as "*any right or interest*" in Clause 12 encompasses possessory rights.

20. Regarding the contention of respondent Smt. Pushpa Devi about the Will dated 14.07.1999 executed by Smt. Kaushalya Devi in her favour, it is pertinent to note that the present litigations do not concern the Will. Learned counsel for the respondent relied on the judgment dated 11.10.2017 of the Civil Judge (Jr. Divn.), Chandigarh, in CS No. CS CJ 12065 of 2012 (Bhushan Lal Sehgal v. Pushpa Rani), where Bhushan Lal Sehgal sought a declaration that the Will was forged and obtained through coercion, asserting that all legal heirs, including himself and Pushpa Devi, were owners of House No.3180/1, Sector 41D, Chandigarh. The trial Court observed that the burden of proving due execution of the Will lies on the propounder. Since Smt. Pushpa Devi, the beneficiary, neither appeared for cross-examination nor produced the original Will, the Court held that the plaintiff failed to establish forgery, and the suit was dismissed.

21. The respondent also referred to the First Appellate Court's judgment dated 26.07.2023 in Civil Appeal No.465 of 2017, which upheld that the Will was not proved, as Smt. Pushpa Devi had neither produced the original Will nor completed her deposition. Accordingly, the allegations regarding forgery or incapacity of Smt. Kaushalya Devi remained unresolved, and the appeal was dismissed.

22. No benefit can be accorded to Smt. Pushpa Devi from these judgments, as the original Will was never produced, and its validity was not established. The mere fact that the plaintiff could not prove forgery due to non-production of the Will does not establish its legality in favour of the respondent.

23. Furthermore, during the pendency of the present litigation, a show-cause notice dated 01.01.2006 was issued to Smt. Pushpa Devi regarding cancellation of the transfer letter dated 23.01.2001. In her reply, she claimed the existence of the registered Will dated 14.07.1999. However, in cross-examination as PW1 in the present proceedings, she admitted that she had not produced the original Will.

24. In view of the above, no weight can be given to the claim of Smt. Pushpa Devi based on an unproven and unrevealed Will dated 14.07.1999.

25. **Conclusion:** Having considered the entire matter, the appeal arising from Civil Suit No. 68 of 2004, filed by Smt. Pushpa Devi, as preferred by Bhushan Sehgal, is accepted. Accordingly, the suit filed by Smt. Pushpa Devi seeking possession of the portion of the house occupied by defendant Bhushan Sehgal (appellant) and recovery of mesne profits is dismissed.

26. As regards the appeal arising out of second suit filed by Bhushan Sehgal, he cannot claim absolute ownership of the house. There is no evidence indicating that the Chandigarh Housing Board has executed a conveyance deed transferring ownership after the allotment. In the absence of such transfer, all legal heirs of Smt. Kaushalya Devi, including Smt. Pushpa & Bhushan Sehgal, hold equal allotment rights in respect of the house and are entitled to have the same transferred from the Chandigarh Housing Board in equal shares, in accordance with law and permissible rules/regulations of Chandigarh Housing Board.

27. Both appeals are disposed of accordingly. Photocopy of this order shall be placed on the connected case file.

September 22, 2025

Sarita

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No