

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****132****RSA-1565-2025 (O&M)****Date of decision: 07.05.2025****Hem Lata****...Appellant(s)****Vs.****Ranjit Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Jashan Jot Singh Uppal, Advocate for the appellant.

NIDHI GUPTA, J.

The defendant No.3 is in second appeal against the judgment of reversal dated 11.03.2025 passed by the learned lower appellate Court, whereby the civil appeal filed by the plaintiff/respondent No.1 herein, has been allowed and judgment and decree dated 10.05.2019 passed by learned trial Court dismissing the suit of the plaintiff, has been reversed.

2. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellant is the 'defendant No.3'; and respondent No.1 is the 'plaintiff'.

3. Brief facts as stated in the plaint are that Kanta Devi @ Daya Wanti daughter of Ram Chand was owner in possession of the suit house by way of Sale Deed No. 3089 dated 17.11.1995 purchased from Satish Kumar son of Naurata Ram. Kanta Devi was unmarried and issueless. She had one sister namely Shakuntla Devi and had no brother. Kanta Devi had expired on 08.06.2003. Parents of Kanta Devi had expired prior to her death. Sister of



Kanta Devi namely Shakuntla Devi was married to Dharam Singh of which wedlock two children were born being plaintiff Ranjit Singh and one daughter namely Surjit Kaur. Surjit Kaur was married to Mal Singh, who died on 29.12.2012 leaving behind Rani Kaur defendant No.2 as her only legal heir. After the death of Kanta Devi, plaintiff had entered into an Agreement to Sell the suit property with the appellant/defendant No.3 vide Agreement to Sell dated 24.03.2006 for a total sum of Rs.4,25,000/- and received Rs.1 lac as earnest money. The said amount was paid to Surjit Kaur, mother of defendant No.2. Possession of the suit property was handed over to the appellant on 08.02.2007 and the plaintiff went to Tehsil Complex Dhuri for execution of Sale Deed in favour of defendant No.3. Even stamp papers were purchased and Sale Deed was got scribed from the Regular Deed Writer. However, the same was not attested and registered by the Sub Registrar on the ground that the plaintiff and defendant No.2 had not got themselves declared as legal heirs of Kanta Devi. Accordingly, plaintiff and defendant No.2 returned the earnest money of Rs.1 lac to the defendant No.3/appellant. However, possession of the suit property was not returned by the defendant No.3 to the plaintiff. Accordingly the present suit was filed by the plaintiff on 11.03.2015 seeking decree of declaration that plaintiff and defendant No.2 are the only legal heirs and owners of the suit property; and decree of possession of the suit property; and a decree for recovery of mesne profits @ Rs.5,000/- p.m. with effect from 08.02.2007 to date for unauthorized occupation of the suit property by the appellant.



4. Suit was resisted by the appellant by filing written statement in which it is *inter alia* submitted that Sale Deed could not be executed before the Sub Registrar as plaintiff and Surjit Kaur could not show their title of the suit land and because they have wrongly mentioned themselves to be the son and daughter of Kanta Devi. As such, appellant had also registered an FIR No. 117 dated 09.09.2007 against them on account of cheating, in which plaintiff and Surjit Kaur were convicted. It was contended that plaintiff had no locus standi to file the present suit. Plaintiff had previously also filed 2 suits for permanent injunction and declaration. It was submitted that the plaintiff along with Satish Kumar son of Narata Ram had taken an amount of Rs.1 lac as earnest money from the appellant in the presence of witnesses and, thereafter, they had extended the date of execution of the Sale Deed from 30.06.2006 to 31.12.2006. Thereafter on 08.02.2007, the plaintiff and Surjit Kaur came to office of Sub Registrar and got scribed the Sale Deed of the house in favour of the appellant after receiving the balance sale consideration. It was further stated that the appellant was told by above said Satish Kumar regarding suit No. 174 dated 20.04.2006 in which compromise was alleged to have been arrived at amongst them. As per compromise dated 29.08.2006, plaintiff and Surjit Kaur were owners of the house in dispute with the consent of Satish Kumar. The appellant had no reason to disbelieve the said version and had accordingly paid the entire sale consideration. As such, Sale Deed was scribed in favour of the appellant only after receipt of balance sale consideration. However, the same could not be registered as the plaintiff and Surjit Kaur failed to show valid title of



the suit land to the Sub Registrar on 08.02.2007. It was further stated that possession of the suit house was taken by the appellant after paying the balance sale consideration, which fact has also been mentioned in the Sale Deed dated 08.02.2007. It is also submitted that plaintiff along-with Surjit Kaur had earlier filed a similar suit No. 156 dated 23.07.2007 decided on 28.07.2010 with regard to the house in dispute; and one more suit No. 174 of 20.04.2006 was filed by Surjit Kaur with regard to the house in dispute, which was filed in connivance with the plaintiff. As such the present suit is not maintainable and sought that the present suit is devoid of merits and dismissed with heavy costs.

5. Replication was filed whereby the averments made in the plaint were reiterated and those in the written statement denied. It was stated in the replication that suit No. 156 dated 23.07.2007 was dismissed in default on 28.07.2010. As regards conviction in the FIR No. 117 dated 09.09.2007, it was stated that all of the accused persons including the plaintiff and Surjit Kaur were acquitted by Id. Additional Sessions Judge, Sangrur.

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

“1. Whether the plaintiffs are entitled to the declaration as prayed for? OPP

2. Whether the plaintiff is entitled to possession as prayed for? OPP

3. Whether the plaintiffs are recovery of mesne profits as prayed for? OPP



4. Whether the present suit is not maintainable? OPD
5. Whether the suit is barred by limitation? OPD
6. Relief.”
7. Upon appraisal of the pleadings and the evidence led by the parties, learned trial Court dismissed the suit of the plaintiff with costs vide judgment and decree dated 10.05.2019. However, the appeal filed by the plaintiff was allowed by learned Additional District Judge, Sangrur vide judgment and decree dated 11.03.2025 and suit of the plaintiff was decreed with costs to the effect that plaintiff and defendant No. 2 are the only legal heirs and entitled to inherit the estate left behind Kanta Devi alias Daya Wanti on the basis of natural succession and entitled to seek back the possession as it is plaintiff who actually had delivered the possession to defendant No.3. Since defendant No.3 Hem Lata is found to be in unauthorized possession since 30.06.2006, as such for illegal possession and occupation of the suit property, plaintiff and defendant No.2 are entitled to mesne profit at the rate of Rs.3,000/- per month from defendant No. 3 from 30.06.2006 which she shall pay till the time actual possession is delivered to the plaintiff within three months from today. Hence, present second appeal by defendant No.3.
8. Learned counsel for the appellant assails the impugned judgment of the learned lower Appellate Court by submitting that in decreeing the suit of the plaintiff, the learned 1st Appellate Court has totally ignored the oral and documentary evidence. The evidence has been misread and misinterpreted as well. The learned first appellate court has



not appreciated the facts in the right perspective. Therefore, the impugned judgment is unsustainable. It has not been appreciated that appellant had entered into agreement to sell for a sum of ₹1,00,000/- paid in cash to the plaintiff who had executed the Agreement Ex.P3 and had received the sum of ₹1,00,000/- as earnest money. Even the remaining balance of ₹3,25,000 was paid at the residence of the plaintiff before proceeding towards the office of sub- registrar. However, sale deed could not be executed. As such, entire sale consideration has already been paid. Fact is that plaintiff did not execute the sale deed on account of registration of FIR no. 117 by the appellant against the plaintiff. It is accordingly prayed that the present appeal be allowed, and the impugned judgment and decree of the learned 1st Appellate Court be set aside.

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

10. I have given my thoughtful consideration to the submissions made on behalf of the appellant and have also perused the case file in detail.

11. Learned trial Court had dismissed the suit of the plaintiff on the ground that there was discrepancy in the plaintiff evidence *in-as-much* as some plaintiff witnesses were deposing that Kanta Devi was married with Chand Lal; whereas other witnesses were deposing that Kanta Devi was married with Narata Ram; whereas as per the plaintiff, Kanta Devi was married with father of the plaintiff, namely, Dharam Singh. However, it is not clear as to how the learned trial Court derived this. This is especially so in view of the categorical pleading of the plaintiff (as noticed in para 3 of the



judgment dated 10.05.2019 of the learned trial Court itself) that Kanta Devi was unmarried and died issueless and had only one sister, namely, Shakuntla Devi (mother of the plaintiff and Surjit Kaur) and Kanta Devi had no brother. It is not denied by the appellant that Kanta Devi was maternal aunt/masi of the plaintiff and Surjit Kaur. The judgment of learned trial Court nowhere indicates as to when and in what manner it was pleaded or stated in oral evidence that Kanta Devi was married to Chand Lal/Narata Ram/Dharam Singh. In any event even if Kanta Devi may have been married, no legal heirs has come forward to claim the estate of Kanta Devi even though plaintiff had impleaded General Public as defendant No. 1 in the suit.

12. The learned lower appellate Court has therefore correctly reversed this finding of the learned trial Court by holding that the plaintiff and Surjit Kaur were proved to be the only legal heirs of the deceased Kanta Devi as it was not disputed that *“Kanta Devi was the true owner of the suit property purchased from Satish Kumar vide registered Sale Deed dated 17.11.1995 Ex.P4; and Kanta Devi was the real sister of Shakuntla Devi i.e. the mother of the plaintiff and Surjit Kaur (who had died on 29.12.2012) and had left behind defendant No.2 Rani Kaur as her only legal heir.”* Learned lower appellate Court also noticed that although the plaintiff had filed a suit against General Public (defendant No.1), nobody had come forward to claim the inheritance of Kanta Devi. As such, plaintiff and defendant No.2 Rani Kaur were the only surviving legal heirs of Kanta Devi; and were, therefore, entitled to property of Kanta Devi as owners in equal



share. I find no error in the above said reasoning and finding of the learned first Appellate Court.

13. Learned trial Court further observed that Kanta Devi had never executed any document from which it could be adduced that she had given any rights to the plaintiff or Surjit Kaur with regard to inheriting the suit property. It was further held that Sale Deed was scribed after receiving the balance sale consideration in the presence of M.C., Geribu and witness Manohar Lal which was signed by the plaintiff and Surjit Kaur. Accordingly, learned trial Court had dismissed the suit of the plaintiff with costs.

14. However, no proof of payment of balance sale consideration has been produced by the appellant. It has been alleged that said payment was made by the appellant in the presence of witnesses. But there is no evidence to this effect. On the contrary, it has been admitted by the appellant in her cross-examination that she had no receipt to prove payment of balance sale consideration of Rs.3,25,000/-. It is also trite that if such payment had been made by the appellant, then she would have made some efforts and taken some action to get the Sale Deed registered. However, no efforts were made by the appellant to get Sale Deed executed either by approaching the Sub Registrar or by filing the suit for specific performance. This would indicate that the appellant had not paid full sale consideration.

15. Moreover, as per Agreement dated 24.03.2006 Ex.P3 date of execution of Sale Deed was fixed for 30.06.2006. In the said agreement, it is clearly mentioned that possession of suit property was handed over to the

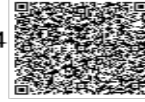


appellant. Thereafter, vide writing dated 30.6.2006, date of execution of sale deed was extended to 31.12.2006. Therefore, the same was mandatorily to be registered as per Section 17 (1A) of the Registration and other Related Laws (Amendment) Act, 2001. Ld. Lower Appellate Court has correctly held that as the said document was not registered therefore, it could not confer any right or title upon the appellant and the same cannot be received in evidence. It was accordingly held that appellant could not remain in possession in the garb of such an agreement. Ld. Counsel for the appellant has not been able to dispute that this requirement of law was not fulfilled.

16. In any event, no title or possession can accrue to the appellant merely on the basis of Agreement to Sell dated 24.03.2006. Payment of balance sale consideration is not proved on record. From the record the only mistake that appears to have been committed by the plaintiff and Surjit Kaur is by inadvertently incorrectly mentioning themselves to be the son and daughter of Kanta Devi because of which FIR was registered by the Sub Registrar against them. However, it is not denied that the plaintiff and Surjit Kaur were acquitted in the said FIR. Appellant has no locus to question the title of the plaintiff. Thus, possession of the appellant over the suit property was illegal.

17. Accordingly, I find no ground is made to interfere in the impugned judgment and decree dated 11.03.2025 of the learned lower appellate Court.

18. The present regular second appeal is hereby **dismissed**.



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

07.05.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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