



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

**RSA-2608-2024(O&M)  
Date of decision: 04.08.2025**

Sita Ram

... Appellant

Versus

Roshan Lal and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Ajay Chaudhary, Advocate, and  
Mr. Deepak Kumar, Advocate,  
for the appellant.

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**VIKRAM AGGARWAL, J. (ORAL)**

**CM-10796-C of 2024**

Prayer in the present application filed under Section 151 CPC is for condonation of delay of 327 days in re-filing the appeal.

Heard.

For the reasons mentioned in the application, which is duly supported by an affidavit, the same is allowed and the delay of 327 days in re-filing the appeal is condoned.

**CM-10797-C of 2024 & CM-5070-C of 2025**

Prayer in the applications filed under Section 5 of the Limitation Act is for condonation of delay of 207 days in filing the appeal.

Heard.

For the reasons mentioned in the applications, which are duly supported by affidavits, the same are allowed and the delay of 207 days in filing the appeal is condoned.

**RSA-2608-2024(O&M)**

This is plaintiff's appeal preferred against the judgment and decree dated 14.12.2022, passed by the Court of District Judge, Yamuna Nagar, dismissing the appeal filed by the plaintiff against the judgment and



decree dated 20.03.2017, passed by the Court of Civil Judge (Jr. Division), Yamuna Nagar, vide which the suit for declaration and permanent injunction instituted by the plaintiff was dismissed.

2. For the sake of convenience, parties shall be referred to as per their original status.

3. The plaintiff (Sita Ram) instituted a suit for declaration and permanent injunction. The dispute is with regard to a land measuring 4 kanals 5 marlas (fully described in the plaint), situated at Village Ratangarh, Sub Tehsil Radaur, District Yamuna Nagar (hereinafter referred to as '**the suit land**'). The case set up by the plaintiff was that in July 2012, when defendant No.1 (Roshan Lal), who was said to be the nephew of the plaintiff, threatened to interfere in the actual and peaceful possession of the plaintiff over the suit land, the plaintiff enquired from the local revenue authorities and came to know that a forged and fabricated sale deed dated 02.11.2007 had been registered in favour of defendant No.1 (Roshan Lal) and consequential mutation No.557 has also been sanctioned and entered.

3.1 It was averred that in a Panchayat convened at the instance of the plaintiff, defendant No.1 admitted that the said sale deed was illegal and assured that he would get the revenue entries corrected and the sale deed set aside. However, thereafter, despite repeated requests from the plaintiff, defendant No.1 had been putting off the matter.

3.2 It was also averred that being an illiterate person, plaintiff was called to the Tehsil for attestation of certain documents of loan to be raised by defendant No.1 and, on the said pretext, by playing fraud upon the



plaintiff, the sale deed was got executed. It was averred that there was no necessity with the plaintiff to execute the sale deed.

3.3 Further, it was averred that during the pendency of the suit, defendants No.1 & 2, in collusion with each other, procured a judgment and decree dated 05.04.2013 without impleading the plaintiff as a party. Accordingly, the suit was filed.

4. Defendant No.1 initially put in appearance and submitted his written statement, wherein he raised preliminary objections but admitted the convening of the Panchayat etc. and his own admission that he would get the sale deed cancelled. It was submitted by him in the written statement that he had no objection if the suit was decreed. However, subsequently, he did not appear and was, therefore, proceeded against *ex parte*.

5. Defendant No.2 also filed his written statement, stating that defendant No.1 had executed an agreement to sell in his favour as regards the suit land and when he did not execute the sale deed, a suit was filed. It was further averred that defendant No.1 had also executed a false agreement in favour of one Surender Kumar on 11.02.2011. Surender Kumar also filed a suit for specific performance. However, the suit filed by defendant No.2 was decreed on 05.04.2013.

6. From the pleadings of the parties, following issues were framed:

**“1. Whether plaintiff is entitled to the relief of declaration as prayed for? OPP**

**2. Whether plaintiff is entitled to the relief of permanent injunction as prayed for? OPP**



3. **Whether suit is not maintainable in the present form? OPD**
4. **Whether present suit has been filed by the plaintiff in collusion of defendant No.1? OPD**
5. **Whether the suit of the plaintiff is time barred? OPD**
6. **Whether plaintiff has no cause of action and locus standi to file the present suit.? OPD**
7. **Whether plaintiff has not come to the court with clean hands and suppressed the true and material facts to the court? OPD**
8. **Whether plaintiff is estopped from filing the present suit by his own act and conduct? OPD**
9. **Relief.”**

7. Parties led their respective evidence.

8. The trial Court dismissed the suit filed by the plaintiff vide judgment and decree dated 20.03.2017 and the appeal preferred against the same was also dismissed vide judgment and decree dated 14.12.2022, leading to the filing of the instant appeal.

9. Learned counsel representing the appellant submits that both Courts erred in non-suiting him. He has referred to the judgments of both the Courts and has submitted that the same are not sustainable.

10. I have considered the submissions made by learned counsel for the appellant.

11. It is settled law that fraud has to be pleaded and proved by leading cogent evidence. The plaintiff did not lead any evidence worth its name to even *prima facie* to prove that sale deed dated 02.11.2007 had been executed by playing fraud. In fact, the plaintiff himself did not step into the



witness-box to depose that his thumb impressions had been obtained on the pretext of executing some documents of loan etc. The Courts, therefore, rightly drew an adverse inference against him. No doubt, a General Power of Attorney holder can appear on behalf of a party but cannot become a witness as regards the facts which are in the personal knowledge of a party.

12. The plaintiff, in his suit, initially did not implead the defendant No.2 and defendant No.1 very conveniently, in a way, admitted the case of the plaintiff. It was only when defendant No.2 was impleaded that the true facts were brought to the notice of the Court. It transpired that a decree for specific performance of agreement to sell dated 28.07.2008 had been passed in favour of defendant No.2, wherein defendant No.1 was directed to execute the sale deed in respect of the suit land in favour of defendant No.2. It was also found that defendant No.1 had executed another agreement to sell in favour of one Suresh Kumar in which a decree for recovery was passed against defendant No.1.

12.1 It, therefore, emerged that after the execution of sale deed dated 02.07.2007, sale agreement dated 28.07.2008 was executed in favour of one Suresh Kumar and defendant No.1 received the entire sale consideration of Rs.6,02,000/-. He then again executed a sale agreement dated 11.02.2011 in favour of one Surender Kumar. It, therefore, stood proved that the suit had been filed by the plaintiff in collusion with defendant No.1 to escape the judgments and decrees passed in favour of defendant No.2 - Suresh Kumar.

12. Still further, the suit was filed 7 years after the execution of the sale deed dated 02.11.2007. The Court, therefore, rightly held that the suit was barred by limitation.



13. Learned counsel representing the appellant has not been able to point out any error of law in the judgment under challenge. On the contrary, there are concurrent findings of facts recorded by both Courts which do not call for any interference.

14. That being so, the present appeal is found to be bereft of merit and is accordingly dismissed.

15. Pending applications, if any, shall also stand disposed of.

**( Vikram Aggarwal )**  
**Judge**

**August 4, 2025**

Rajan

Whether speaking / reasoned:

Yes/No

Whether Reportable:

Yes/No