



2026:DHC:6093



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Reserved on: 11th May, 2026

Pronounced on: 30th July, 2026

+ **RSA 212/2019, CM APPL. 46051/2019, CM APPL. 46052/2019**

1. SMT. SUNITA (SINCE DECEASED)

W/o Sh. Suresh Kumar Gupta

Through Legal heirs:

I) Suresh Singhal
S/o Sh. Rameshwar Dass
R/o E-4/127, Sector-7,
Rohini, New Delhi-110085.

II) Sh. Sandeep Singhal
S/o Sh. Suresh Singhal
R/o E-4/127, Sector-7,
Rohini, New Delhi-110085.

III) Smt. Anuradha
D/o Sh. Suresh Singhal
R/o E-4/127, Sector-7,
Rohini, New Delhi-110085.

....Appellants

Through: Mr. Prateek Baghel, Advocate

versus

1. DHARAM DASS GUPTA

S/o Sh. Sita Ram Gupta

R/o 653/B, Mansarovar Colony,
Mahavir Chowk, Muzzafar Nagar,
Uttar Pradesh

Through Legal Heirs:

I) Sh. Devendra Kumar Gupta
S/o Sh. Dharam Dass Gupta



R/o 653-B, Mansarover Colony,
South Civil Line,
Muzzaffar Nagar, U.P.

II) Sh. Ghanendra Kumar Gupta
S/o Sh. Dharam Dass Gupta
R/o 653-B, Mansarover Colony,
South Civil Line,
Muzzaffar Nagar, U.P.

III) Smt. Madhu Bansal
W/o Satya Prakash Bansal
R/o 86-C, New Mandi,
R/o 86-C, New Mandi,
Muzzaffar Nagar, U.P.

IV) Smt. Anju Goyal
W/o Sh. Vijay Goyal
R/o Mohalla Gujratiyan,
Shamli, U.P.

V) Smt. Sangeeta
W/o Sh. Sunil Garg
R/o 6/99, Madho Vihar Colony,
Shaharanpur, U.P.

....Respondent No.1

2. SH. NARAIN SINGH
S/o Shri Neki Ram
R/o Village Nangli Sakrawati,
Delhi.

....Respondent No. 2

3. SHRI KARTARE
S/o Shri Neki Ram
R/o Village Nangli Sakrawati,
Delhi.

....Respondent No. 3

4. SH. SOM DUTT
S/o Shri Neki Ram



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R/o Village Nangli Sakrawati,
Delhi.

....Respondent No. 4

5. SH. OM DUTT
S/o Shri Neki Ram
R/o Village Nangli Sakrawati,
Delhi.

....Respondent No. 5

6. SH. SANSAR SINGH
S/o Sh. Neki Ram
R/o Village Nangli Sakrawati,
Delhi.

....Respondent No. 6

7. SH. RAM KISHAN
S/o Shri Neki Ram
R/o Village Nangli Sakrawati,
Delhi.

....Respondent No. 7

8. SH. MEHTAB SIINGH
S/o Shri Neki Ram
R/o Village Nangli Sakrawati,
Delhi.

....Respondent No. 8

9. SH. SRIPAL
S/o Shri Neki Ram
R/o Village Nangli Sakrawati,
Delhi.

...Respondent No. 9

10. SH. SUNIL KUMAR
S/o Shri Neki Ram
R/o Village Nangli Sakrawati,
Delhi.

....Respondent No. 10

Through: Mr. Jitender Verma, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T



NEENA BANSAL KRISHNA, J.

CM APPL. 46053/2019 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

RSA 212/2019

3. **Regular Second Appeal** under Section 100 of the Code of Civil Procedure, 1908 (*hereinafter referred to as "CPC"*) has been filed by *Plaintiff/Appellant, Smt. Sunita* against the Judgment dated **28.04.2014**, whereby the learned Additional District Judge, **upheld** the Judgment and Decree dated **16.11.2012**, *vide* which ***the Suit for Possession and Permanent Injunction filed by the Plaintiff was dismissed by the learned Civil Judge.***

4. The Plaintiff had filed a Civil Suit bearing **Suit No. 2570/1988** (*New Suit No.454/2006*) for *Recovery of Possession and Permanent Injunction against the Defendants.*

5. The **brief facts** as narrated in the ***Plaint*** are that Defendant Nos. 2 to 10 were the owners of a Plot of land bearing Nos. 61 and 62, admeasuring 586 square yards, out of Khasra No. 17/11, Village Nangli, Sakrawati, Delhi, also known as Nangli Vihar Colony (*hereinafter referred to as 'the suit property'*).

6. Defendant No. 2, *Sh. Narain Singh*, by virtue of a registered GPA dated **09.12.1983**, was the General Power of Attorney Holder of the Defendant Nos. 3 to 10.

7. The Plaintiff claimed, that she had purchased the suit property *vide* a registered Sale Deed dated **05.01.1984**, for a sale consideration of



Rs.10,000/- and the possession of the suit property was handed over to the Plaintiff.

8. The Plaintiff after taking possession, had dug up the foundation of the suit property and built a boundary up to the plinth level. The Plaintiff had spent an amount of Rs. 2,00,000/- towards the said construction.

9. The Plaintiff claimed that the continued escalation of price of land made Defendant Nos. 2 to 10, dishonest and greedy. On **01.07.1988**, the Defendants stored some building material near the suit property, with the intention of taking over the possession of the suit property by force and wanted to raise further construction thereon.

10. The Plaintiff apprehending forcible dispossession by the Defendants, filed a **Civil Suit No. 229/1988**, titled *Smt. Sunita Rani vs. J.S. Sobti*, for Permanent Injunction. In the said Suit, the Plaintiff had filed an Application under Order 39 Rule 1 and 2 of the CPC seeking *ex-parte ad-interim* injunction against Defendant No. 1, *Sh. Dharam Das Gupta* and the learned Sub-Judge issued notice in the aforesaid Application of the Plaintiff.

11. However, on the same day i.e. 01.07.1988, the Defendants succeeded in taking over the possession of the suit property from the Plaintiff and consequently, the Application filed by the Plaintiff was dismissed by the learned Sub-Judge.

12. In the said Suit, *Sh. J.S. Sobti*, Attorney of Defendant No. 1, had set-up a defence that Defendant No. 3 had sold the suit property to *Sh. Dharam Das Gupta*, Defendant No. 1, *vide* a registered Sale Deed dated **11.09.1974**, and that *Sh. J.S. Sobti* being the Attorney of Defendant No. 1, was in possession of the suit property.



13. The Plaintiff claimed that before purchasing the suit property from the Defendant Nos. 2 to 10, she had duly verified the title of Defendant Nos. 2 to 10 from the Revenue Records, wherein, their names were duly recorded as the *bhumidars* of the suit property.

14. The Plaintiff further claimed that in terms of the *Delhi Land Restrictions on Transfer of Property Act, 1972*, a “No Objection Certificate” was a pre-requisite for execution and registration of a Sale Deed. The Plaintiff along with Defendant Nos. 2 to 10, had moved an Application before the Competent Authority for obtaining a *No Objection Certificate*. After obtaining the said No Objection Certificate, ***the registered Sale Deed dated 05.01.1984, was duly executed in favour of the Plaintiff.***

15. It was claimed that the Sale Deed dated 11.09.1974, upon which *Sh. J.S. Sobti*, Attorney of Defendant No.1, had placed reliance, is either bogus or has never been acted upon. Even otherwise, the sale would have no effect after expiry of a period of three years, from the date of registration of the alleged Sale Deed, in case Defendant No. 1 had not obtained the possession of the suit property pursuant to the same.

16. The Plaintiff claimed that in view of the registered Sale Deed dated 05.01.1984 executed in her favour, the Defendants have no right, title and interest in the Suit Property. The Plaintiff had been in continuous possession of the suit property from **19.04.1984** till 01.07.1988 i.e., when she was forcibly dispossessed by the Defendants.

17. Hence, the Plaintiff filed the present *Suit seeking Recovery of Possession of the Suit Property and for Permanent Injunction against the Defendants.*



18. The Suit was contested by **Defendant No. 1, Sh. Dharam Das Gupta**, who in his **Written Statement**, asserted that the Sale Deed dated 05.01.1984 executed in favour of the Plaintiff, **is a forged and fabricated document**. Defendant No. 1 asserted that *Sh. Kartar Singh*, being the Attorney Holder of his brothers, *Sh. Sangram Singh*, *Sh. Narain Singh* and *Sh. Ajit Singh* and his sisters, *Smt. Prem Kaur*, *Smt. Mehar Kaur*, *Smt. Dayawati*, *Smt. Jaiwati* and mother *Smt. Gopali*, had sold the suit property to Defendant No. 1, vide a registered Sale Deed dated 11.09.1974 and handed over the possession on the spot. Defendant No. 1 claimed that he has been in continuous and peaceful possession of the suit property since then.

19. Defendant No. 1 further stated that in October, 1983, he had appointed *Sh. J.S. Sobti*, as his General Power of Attorney, who had been in possession of the suit property since then.

20. It was claimed that the father of the Plaintiff, *Sh. Gian Chand Gupta*, who is a well-known Property Dealer, in connivance with the previous owners of the suit property, got a false and fictitious Sale Deed executed in favour of the Plaintiff, in the year 1984. It was denied that the suit property came in plot Nos. 61 and 62 or that the Plaintiff had been in possession of the suit property, by virtue of the Sale Deed dated 05.01.1984.

21. Defendant No. 1 further claimed that being the owner of the suit property, there was no reason for him, to store any building material near the suit property nor was there any question of him taking possession of the same.

22. The Plaintiff had admittedly filed Civil **Suit No. 227/1988**, with the prayer that *Sh. J.S. Sobti*, Attorney Holder of Defendant No. 1, be restrained from interfering in the Possession of the Plaintiff in the suit property. The



said Suit filed by the Plaintiff, was based on mis-statements that the Defendants had taken forcible possession of the Suit Property on 01.07.1988. The learned Sub Judge while deciding the Application filed by the Plaintiff under Order 39 Rules 1 and 2 of the CPC, observed that there was no *prima facie* case made out in favour of the Plaintiff and consequently the dismissed the aforesaid Application.

23. *It was thus, prayed that the Suit is without any merit and is liable to be dismissed.*

24. *Defendant Nos. 2 to 10 in their Written Statement*, asserted that they had handed over the possession of the suit property to the Plaintiff, in the year 1984. They further reaffirmed that they had executed a Sale Deed dated 05.01.1984 in favour of the Plaintiff. It was further asserted that after the registration of the said Sale Deed, Defendant Nos. 2 to 10 were left with no right, title and interest in the Suit Property.

25. *Defendant Nos. 2 to 10 after filing their Written Statement, chose not to contest the Suit.*

26. The Plaintiff in her **Replication** reaffirmed the assertions as made in the Plaint and denied the averments made in the Written Statement.

27. The learned Civil Judge framed the following issues on **18.02.1997**, which are as under:-

- i. *Whether the Plaintiff is entitled to recover the possession from the defendant? OPP*
- ii. *Whether the plaintiff is entitled to the relief of injunction against the defendant? OPP*
- iii. *Whether the plaintiff is the owner of the suit property? OPP*



- iv. *Whether the plaintiff has filed the present suit in connivance with defendants nos. 2 to 10 in Order to grab the suit property from defendant no. 1? If so, its effects? OPD1*
- v. *Whether there is no cause of action in favour of the plaintiff and against the defendant no. 1? OPD1*
- vi. *Whether this court has no jurisdiction to try and entertain the present suit? OPD*
- vii. *Relief.*

28. The Plaintiff, *Smt. Sunita* in support of her case, examined **PW-1**, *Sh. Lubber Ram*, who deposed that the Plaintiff along with the husband were the owners of the suit property.

29. **PW-2**, *Sh. Joginder Singh*, deposed on similar lines as **PW-1**.

30. **PW-3** *Smt. Kamlesh* and **PW-4** *Sh. Harbans Singh* were not able to depose anything regarding the ownership of the Plaintiff in the suit property.

31. The Plaintiff examined herself as **PW-5**, and reiterated the averments as made in the *Plaint*.

32. The Defendant No. 1 examined himself as **DW-1** and reaffirmed the defence as taken in the *Written Statement*. He, in support of his case, further examined **DW-2** *Sh. Ram Chander Yadav*.

33. The **learned Civil Judge** after appreciating the rival contentions of the parties observed that the Plaintiff had neither filed a *Suit for Declaration of Bhumidars* nor had sought ejectment of the Defendants from the suit property.



34. It was further observed that while the Plaintiff was relying on Sale Deed dated 05.01.1984, **Ex. PW5/2**, Defendant No. 1 relied on a Sale Deed dated 11.09.1974, **Ex. DW1/1**, which was prior to that of the Plaintiff. Moreover, while Defendant Nos. 2 to 10, in their Written Statement, had claimed that they had sold the suit property to the Plaintiff, however, had chosen not to contest the Suit.

35. It was observed that the Plaintiff had failed to prove that the Suit Property fell under plot Nos. 61 and 62. It was thus, held that the Plaintiff on the basis of a subsequent Sale Deed, cannot claim possession of the suit property against Defendant No. 1, who had a better title. **Consequently, the Suit for Possession and Permanent Injunction, filed by the Plaintiff, was dismissed.**

36. Aggrieved by the Judgement and Decree dated **16.11.2012**, the Plaintiff filed **RCA No. 04/2013**. The learned Additional District Judge, on re-appreciation of the evidence, ***upheld the findings of the learned Civil Judge and consequently dismissed the Appeal filed by the Plaintiff, vide Judgment dated 28.04.2014.***

37. *Aggrieved by the Judgment dated 28.04.2014, the Plaintiff has preferred the present Regular Second Appeal, under Section 100 of the CPC.*

38. The **proposed Substantial Questions of Law**, are as under:

- a) *Whether, the findings of the courts below suffer from perversity being not based on the pleadings and evidence adduced by the parties before the Ld. Trial Court and First appellate court?*
- b) *Whether, the courts below have not committed a complete illegality and closed perversity in relying*



upon the documents Ex. DW-1/1 and Ex. DW-1/2, the exhibit DW-1/A i.e. the Affidavit by way of evidence filed by DW-1 is out of pleading?

- c) Whether, the Courts below have not committed a complete gross and illegality and perversity in ignoring complete testimony of PW-1 to PW-5 who were the witnesses of the adjacent plot and whereas, PW-3 who was the Local Commissioner by the Ld. Trial Court who identified the suit property No. and the colony?*
- d) Whether the courts below have not committed a complete illegality and perversity in dismissing the suit of the plaintiff on the ground that Sale deed Ex. Dw-1/1 is much prior to the plaintiff's sale deed Ex.PW-5/2?*
- e) Whether the courts below have not committed a complete illegality and perversity in dismissing the suit of the plaintiff on the ground that the document exhibit PW-5/3 i.e. declaration does not bear the signature of the plaintiff and hence, it is under suspicion?*
- f) Whether the courts below have not committed a complete illegality and perversity in dismissing the suit of the plaintiff on the ground that the defendant have not proved his claim which he assert that the vicinity is known as Jai Park and plots number are 80, 81, 89 and 90. Whereas the plaintiff have proved that the colony is known as Nangli Vihar?*
- g) Whether the courts below have not committed a complete illegality and perversity in dismissing the suit of the plaintiff on the ground that the Ld. Trial Court had allowed the defence counsel ask the*



leading question in the cross examination conducted upon the plaintiff's witnesses?

- h) Whether the courts below have not committed a complete illegality and perversity by ignoring the written statement filed by the defendant No. 2 to 10 wherein these erstwhile owners have admitted the sale transaction commence between plaintiff and defendant no. 2 to 10 and denied the fact to have sold the plots to defendant No.1?*
- i) Whether, the courts below have not committed a complete illegality and perversity in dismissing the suit of the plaintiff on the ground that in the absence of the documentary evidence for establishing the rights of the defendants over the suit property has been admired by the courts below?*

39. The **grounds of challenge** are that the Judgments passed by the learned Civil Judge as well as the learned Additional District Judge, are erroneous in the eyes of law and far away from the facts of the case.

40. It was claimed that the Execution had been filed by the Defendants, after a period of three years, which itself reflects the ulterior motives of the Defendants.

41. The learned Civil Judge as well as the learned Additional District Judge committed a serious error while passing their respective Judgments, by overlooking the facts and material available on record.

42. It was thus, prayed that the Judgment dated 28.04.2014 of the learned Additional District Judge upholding the Judgment and decree dated 16.11.2012 passed by the learned Civil Judge, be set-aside.



Submissions heard and record perused.

43. At the outset, it may be noted that the learned Civil Judge *vide* Judgment and Decree dated 16.11.2012, had dismissed the Suit for Possession, filed by the Plaintiffs and the said Judgment was affirmed by the learned Additional District Judge, *vide* Judgment dated 28.04.2014.

44. The Plaintiff has filed a Regular Second Appeal, whereby, the Order of the learned Additional District Judge dated 28.04.2014, has been challenged. *For a Second Regular Appeal to be maintainable, the Appellants have to show some substantive questions of law; those which have been proposed herein above are essentially on facts. However, the facts and finding are being considered, to consider if any substantial question of law, has indeed arisen.*

45. In the present case, the Plaintiff, *Smt. Sunita*, has filed a Suit for Possession by asserting that she had purchased the Suit Property *vide* a registered Sale Deed dated 05.01.1984 **Ex. PW5/2** from **Sh. Narain Singh s/o Sh. Neki Ram**, who *vide* a registered GPA dated 09.12.1983 was the Attorney holder of *Sh. Kartare, Sh. Som Dutt, Sh. Om Dutt, Sh. Sansar Singh, Sh. Ram Kishan, Sh. Mehtab Singh, Sh. Sri Paul and Sh. Suneel Kumar, all sons of Neki Ram.*

46. Pertinently, the Suit was contested by Defendant No. 1, *Sh. Dharam Dass Gupta*, who relied upon a registered Sale Deed dated 11.09.1974 **Ex. DW1/1**, executed in his favour by **Sh. Kartare Singh s/o Sh. Neki Ram**, who *vide* registered GPA dated 21.02.1974, was the Attorney holder of his brothers *Sh. Sangram Singh, Sh. Narain Singh, Sh. Azad Singh* and his sisters, *Smt. Prem Kaur, Smt. Mehar Kaur, Smt. Daya Wati and Smt. Jai Wati* and his mother **Smt. Gopali w/o Sh. Neki Ram.**



47. The first thing, which emerges, is that Defendant No. 1, *Sh. Dharam Dass Gupta* had a registered Sale Deed dated 11.09.1974, which is much prior in time, to that of the Plaintiff, which is dated 05.01.1984; therefore, the first thing, which emerges is that Defendant No. 1 has derived a title from the registered Sale Deed, which is much prior in time.

48. The second fact, which conspicuously stares at the face of the record, is that ***Sh. Narain Singh s/o Sh. Neki Ram***, was one of the brothers, on whose behalf, *Sh. Kartar Singh* had executed the first Sale Deed dated 11.09.1974 in favour of Defendant No.1.

49. Pertinently, the names of the brothers and the sisters, who are children of *Sh. Neki Ram*, as mentioned in the first Sale Deed, are patently different from the names of the children of *Sh. Neki Ram*, as mentioned in the Second Sale Deed. It is pertinent to note that the persons named in the second Sale Deed, have been arrayed as Defendant Nos. 3 to 10 in the Suit.

50. There is a huge discrepancy in the names of the legal heirs of Late *Sh. Neki Ram*, in the aforesaid two Sale Deeds, which has not explained either in the pleadings or in the evidence.

51. The next fact, which emerges, and which has been noted by both the Courts is that the second Sale Deed dated 05.01.1984 **Ex. PW5/2** mentions that “*whereas the vendors acquired the said land by means of a relinquishment deed from their daughters, Gopali etc. vide registered as No. 6592 dated 24.10.1983, in the Office of the S.R, Delhi*”. In this regard, it is pertinent to note that in the first Sale Deed of 1974, *Smt. Gopali* has been mentioned as the wife of *Sh. Neki Ram*; however, in the second Sale Deed of 1984, she is indicated as one of the daughters.



52. Another fact which emerges, is that it was claimed that the daughters of *Sh. Neki Ram* had executed a relinquishment Deed dated **24.10.1983**. However, the said Relinquishment Deed has not been placed or proved on record. In fact, the best way of proving this, was to either place the Relinquishment Deed itself on record or at least, summon some witness from the Office of Sub-Registrar, in order to prove the same.

53. The next aspect, which is significant and as has also been noted by the learned Civil Judge, is that in the second Sale Deed dated 05.01.1984 **Ex. PW5/2**, it is mentioned that vendor is the owner and in possession of the land admeasuring 586 sq. yards out of Khasra No. 17/11, situated at Village Nangli, Sakrawati, Delhi. Pertinently, the plot numbers have not been mentioned in the said Sale Deed, for which no explanation has been provided by the Plaintiff.

54. On the other hand, in the first Sale Deed dated 11.09.1974 **Ex. DW1/1**, not only have the plot numbers, *been indicated as 80, 81, 89 and 90. It is also mentioned that each plot was 200 sq. yards and the total land sold was 800 sq. yards out of Khasra No. 17/11, situated at Village Nangli, Sakrawati, Delhi.* Not only this, the demarcation of the land had also been done by mentioning the properties around these plots of land.

55. Therefore, the learned Civil Judge had rightly observed that the Sale Deed being subsequent in time and for the aforesaid reasons, could not confer a valid title on the Plaintiff. The Property already stood sold to Defendant No. 1 vide a registered Sale Deed dated 11.09.1974 **Ex. DW1/1**, and thus, the Plaintiff could not have acquired any right title interest under the second Sale Deed.



56. The Plaintiff had then created a dispute about the location of the suit property. It was claimed that as per the first Sale Deed dated 11.09.1974 **Ex. DW1/1**, the Property was located in Village Nangli, Sakrawati, Delhi, in the *abadi of Jai Park, Delhi*, which indicates that the property purchased by Defendant No. 1 is different from the property, which had been purchased by the Plaintiff, *vide* the second Sale Deed dated 05.01.1984 **Ex. PW5/2**.

57. Pertinently, the second Sale Deed in favour of the Plaintiff, did not mention the plot numbers. To support that these pertain to Plot Nos. 61 and 62, a Declaration **Ex. PW5/3** by *Sh. Narain Singh* was given separately. However, this Declaration, firstly does not have any date. Even if it accepted that this was given on the same day as the Sale Deed, there is no reason why the plot numbers had to be declared separately and not mentioned in the Sale Deed itself. This Declaration, **Ex. PW5/3** has also been rightly disbelieved by the learned Civil Judge.

58. In order to support her contentions, the Plaintiff had examined five witnesses, namely, **PW-1**, *Sh. Lubber Ram*, who had deposed that Arjun Vihar was earlier known as Nangli Vihar, but he was not aware if it was known as Jai Park. His testimony had been rightly disbelieved as he was unable to produce any cogent documents to show that Nangli Vihar was earlier known as Jai Park.

59. Similarly, **PW-2**, *Sh. Joginder Singh*, who was resident of Plot No. B-58, stated that *Sh. Jai Kishan* and *Smt. Sunita Rani*, were the owners of the Plot Nos. 61 and 62, was rightly disbelieved, as it emerged that he was not aware of the situation of the plots in the 1970s, and his testimony was of no help to the Plaintiff.



60. Likewise, **PW-3**, *Smt. Kamlesh* had also deposed that she was not aware if in 1974, Arjun Park, was known as Jai Park. Moreover, she had no personal knowledge of the area as it existed in 1970s as she came to reside in Arjun Park in 1996. **PW-4**, *Sh. Harbans Singh* also had been residing in Arjun Park for 15-16 years and had no knowledge about the plot numbers of the area in 1970s.

61. The *learned Civil Judge*, therefore, rightly observed that the evidence of these four witnesses, did not corroborate or prove that the suit plots in respect of which the Sale Deed of the Plaintiff had been executed, was different from the plots mentioned in the Sale Deed of the Defendant No. 1.

62. Another significant evidence was the report of the Local Commissioner, **Ex.PW-3A/1** but it has been rightly noted that the observations given by the Local Commissioner, was on the basis of the Statements of the local residents, namely, *Sh. Joginder Singh*, *Sh. Lubber Ram* and *Sh. Vijender Singh* that were recorded by her. *Sh. Lubber Singh* and *Sh. Joginder Singh* were examined as PW-1 and PW-2 respectively, however, their testimony, as discussed above, is unreliable. *The Report of the Local Commissioner, had been rightly rejected by both the Courts.*

63. No independent, cogent evidence or revenue records, had been examined by her to conclude that the suit properties bore plot Nos. 61 and 62 and were different from those for which the Defendant No.1 had the prior sale deed. Rather, there may be confusion created in the plot numbers, but the identity of suit property is not in dispute as both the Plaintiffs and the defendants are staking their rival claims for the same plots.

64. The learned Civil Judge, therefore, comprehensively considered the entire evidence as led by the Plaintiff, to hold that the she was unable to



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prove that her Sale Deed dated 05.01.1984 **Ex. PW5/2**, would prevail over the Sale Deed of the Defendant No. 1, dated 11.09.1974 **Ex. DW1/1**.

65. Though this aspect has not been argued but it is pertinent to observe that the Law is well settled that whenever, there is a cloud on the title of the Plaintiff, she must seek a Declaration of a title and Cancellation of the earlier Sale Deed, as has been held by the Apex Court in the case of Anathula Sudhakar v. P. Buchi Reddy, (2008) 4 SCC 594. However, no such declaration/cancellation of the Sale Deed executed in favour of the Defendant No. 1, has been sought by the Plaintiff in the present case.

66. It may be concluded from the aforesaid discussion that there is no perversity in the findings of the learned Civil Judge, which has been upheld by the learned Appellate Court. The observations are based on coherent and comprehensive appreciation of the evidence of the parties. ***No substantial question of law has been raised by the Plaintiff, in the present second Appeal.***

67. In view of the aforesaid discussion, ***there is no merit in the present Appeal, which is hereby dismissed.***

68. Pending Application(s), if any, also stand disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JULY 30, 2026/RS