

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

**Regular Second Appeal No.2368 of 2015 (O&M)
Date of Decision: January 18, 2016.**

Satpal Singh

.....APPELLANT(s).

VERSUS

Sushila Devi and others

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Kanwaljit Singh, Senior Advocate with
Ms. Gurdeep Kaur and Mr. Raj Kumar Rana, Advocates
for the appellant (s).

SURINDER GUPTA, J.

This is appeal by Satpal Singh-defendant against the concurrent judgments of the Courts below, whereby the suit of plaintiffs-respondents Smt. Sushila Devi, Tilak Raj and Tejinder Mohan was decreed and they were declared owners of the suit property comprising of 758 square yards situated in village Munda Majra, Tehsil Jagadhari, as fully described in the head note of the plaint and the decree dated 26.10.2009 in case titled as '*Satpal Singh Vs. Gurbachan Singh*' was held to be result of misrepresentation, fraud, illegal, null and void and not binding on the rights of the plaintiffs. The appellant-defendant was also restrained from interfering in the peaceful possession of the plaintiffs or from raising any construction over the suit property.

2. As per case of the plaintiffs, they have purchased the disputed property from Gurbachan Singh vide sale deed dated 08.01.2001 for a valuable consideration of ₹2,10,000/-. Possession of said plot was delivered to the plaintiffs at the time of execution and registration of the sale deed. A suit was filed by Suresh Kumar, Shakti Kumar and Karan Kumar sons of Gurbachan Singh bearing civil suit No.109 dated 17.10.2003, wherein they challenged the sale deed dated 08.01.2001 claiming the suit property as ancestral. Gurbachan Singh was also a party to that suit as defendant No.4 and he admitted the sale deed in favour of plaintiffs as legal and valid. The suit was dismissed by Civil Judge (Junior Division), Jagadhari on 09.08.2008 and the appeal filed by Suresh Kumar and others was also dismissed.

3. Satpal Singh, defendant No.1-appellant is sister's son of Gurbachan Singh. After the dismissal of suit No.109 filed on 17.10.2003 by Suresh Kumar and others, he propounded an agreement to sell dated 10.09.1999 regarding the suit property in his favour. In order to cause wrongful loss to the plaintiff, this agreement was ante-dated and the suit bearing civil suit No.80 was filed by Satpal Singh against Gurbachan Singh, who did not appear to contest the suit, which was ultimately decreed. The plaintiffs were not made party to that suit. The plaintiffs being in possession of the disputed plot, have raised a boundary wall and a tin shed over it without any objection from the defendants.

4. In civil suit No.109 of 2003 filed by Suresh Kumar and others, defendant No.2(defendant No.4 in that suit) had nowhere alleged that he had

executed any agreement dated 10.09.1999 in favour of Satpal. A

manipulated report was also obtained from the process-server regarding the delivery of possession while at the spot, plaintiffs are in possession of the suit property.

5. Defendant No.1-Satpal Singh in his written statement claimed title over the suit property on the basis of agreement dated 10.09.1999 executed by Gurbachan Singh submitting that defendant No.2 was not competent or authorised to sell the suit land to the plaintiffs vide sale deed dated 08.01.2001 as he had already executed agreement to sell dated 10.09.1999. He alleged that the judgment and decree passed in civil suit No.109 of 2003 is not binding on him.

6. Defendant No.2-Gurbachan Singh in his written statement also supported the case of defendant No.1 regarding execution of agreement dated 10.09.1999. He, however, alleged that agreement dated 10.09.1999 was cancelled as defendant No.1 failed to get the sale deed executed in his favour and this fact was disclosed to the plaintiffs. He, however, denied that possession of the suit land is with the plaintiffs and claimed his possession over it.

7. Learned Civil Judge (Junior Division), Yamuna Nagar at Jagadhari observed that the sale deed dated 08.01.2001 in favour of plaintiffs was earlier challenged by sons of Gurbachan Singh in civil suit No.109 of 2003 and defendant No.2 Gurbachan Singh was also a party to that suit, which was dismissed. Appeal filed by Suresh Kumar and others was dismissed by first Appellate Court and also by this Court and the sale deed dated 08.01.2001 was held as valid and binding on the defendants in that suit. It was after final decision of that suit that defendant No.1 Satpal who is

sister's son of defendant No.2-Gurbachan Singh, swung into action and claimed titled of the suit land on the basis of agreement dated 10.09.1999 executed in his favour by Gurbachan Singh and then filed the suit based on that agreement without impleading plaintiffs as party. His suit was decreed as Gurbachan Singh did not contest that suit and ultimately, a sale deed was executed in favour of appellant-defendant Satpal Singh. The suit by Satpal Singh was filed in the year 2008. The judgment and decree dated 26.10.2009 passed in suit titled as 'Satpal Singh Vs. Gurbachan Singh' bearing civil suit No.80 of 2008 was held as result of fraud, misrepresentation, collusion and was set aside. The finding of the Civil Judge were affirmed by the first Appellate Court. It was also observed by the first Appellate Court that the alleged agreement in favour of Satpal was not scribed by regular deed writer; it was neither notarised nor registered; Gurbachan Singh was resident of village Munda Majra, Satpal Singh was of village Sarangpur, whereas the attesting witnesses belong to village Haripur Jattan and Amirpur; no target date was fixed for execution and registration of the sale deed, which reflects that the purpose of fabricating the agreement without any target date, was only to by-pass the provisions of the Limitation Act; and there was no explanation by Satpal Singh-appellant for not getting the sale deed executed as per the agreement in his favour for a period of about nine years.

8. I have heard learned counsel for the appellant at length and have also perused the paper book and judgments of the Courts below with his assistance.

9. It is apparent from the facts and circumstances that Gurbachan Singh after executing the sale deed in favour of plaintiffs-respondents, first

got the sale deed challenged through his sons in the civil suit filed in the year 2003. In the written statement filed in that suit, he nowhere took the plea that any agreement to sell with regard to the suit land had been executed in favour of Satpal Singh on 10.09.1999. After having failed in that suit up to the second Appellate Court, Satpal Singh, sister's son of Gurbachan Singh was put forth to claim title over the suit land. It is evident that the entire litigation created at the behest of Gurbachan Singh and his sons to challenge the sale deed in favour of plaintiffs was to divest them of their title. Firstly, as observed by the first Appellate Court, the execution of agreement dated 10.09.1999 by Gurbachan Singh was shrouded with suspicion. Even if, any such agreement was there, Satpal Singh-appellant would not have waited for nine years and had filed the suit only after losing of litigation by sons of Gurbachan Singh. All this shows his connivance with Gurbachan Singh and an active mind operating behind the scene to defeat the claim of purchasers of land from Gurbachan Singh vide sale deed dated 08.01.2001.

10. In view of the facts and circumstances discussed above, I find no legal or factual infirmity in the concurrent findings of the Courts below calling for any interference.

11. No substantial question of law requiring determination arises in this appeal, which has no merits.

12. Dismissed.

January 18, 2016.
Sachin M.

(SURINDER GUPTA)
JUDGE