

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

**RSA No.1453 of 2017 (O&M)**

**Date of decision: 25.01.2018**

**Piara Singh**

**.....Appellant**

**Versus**

**Jaswant Singh and others**

**.....Respondents**

**CORAM:HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. A.D.S. Bal, Advocate,  
for the appellant.

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**Ritu Bahri, J.**

This appeal has been filed against the judgment dated 02.11.2016 passed by the Additional District Judge, Patiala, dismissing an appeal filed by defendant-appellant against the judgment and decree dated 03.08.2015 passed by the Civil Judge (Junior Division), Rajpura, whereby suit filed by plaintiff-respondent Nos.1 to 3 for permanent injunction, has been decreed.

Jaswant Singh etc.-plaintiffs (respondent Nos.1 to 3 herein) filed the aforesaid suit alleging therein that they were owners and in possession of 1/3 share of land measuring 13 bighas 04 biswas comprising in Khasra No.273 (4-0) and 274 (0-8). As per plaintiffs, defendants have no right, title or interest in their share over the suit land. They have also filed partition proceedings against the defendants. The plaintiffs had requested the defendants not to interfere in their peaceful possession over the suit property and not to raise any construction thereon, but to no avail. Hence,

the suit.

Upon notice, defendants (Jaswant Singh and present appellant Piara Singh) filed written statement taking preliminary objections with regard to the concealment of true facts from the Court, locus standi etc. On merits, it was denied that plaintiffs (respondent Nos. 1 to 3 herein) were owners and in possession of the suit property. It was stated that Jaswant Singh along with his brother and mother were owners to the extent of 1/3 share each in the suit property. Land measuring 04 bighas 08 biswas was mortgaged with one Butta Singh more than 13 years ago for a sum of Rs.40,000/-, but they were cultivating the land. On 16.06.2011, the amount was returned to Butta Singh and the property was got redeemed. Later on, share of their mother Inder Kaur was also devolved upon them and they became owner of ½ share in the suit property. It was stated that land measuring 04 bighas 08 biswas was never sold to the plaintiffs. No such sale deed or agreement was ever executed by Piara Singh. The said documents were the result of fraud and misrepresentation, which were prepared by the opposite party in connivance with the witness and revenue officials. No consideration was passed. Piara Singh was under impression that he had redeemed the land from Butta Singh on 16.06.2011.

Piara Singh-defendant No.2 (appellant herein) had also filed a suit for declaration to the effect that he was owner and in possession over the suit property and the sale deed dated 12.06.2003 was the result of fraud. defendant No.1 never entered into an agreement to sell the suit land. It was further alleged that mutation No.5919 was liable to be set aside along with suit for permanent injunction filed by plaintiffs. Vide order dated

28.04.2012, suit titled as 'Piara Singh vs. Jaswant Singh' was consolidated

with main suit titled as 'Jaswant Singh vs. Jaswant Singh etc.'

From the pleadings of the parties, following issues were framed by the trial Court on 23.07.2011:-

1. Whether the plaintiffs are entitled to decree for permanent injunction as prayed for? OPP
2. Whether the plaintiffs have not come to the court with clean hands? OPD
3. Whether Whether the plaintiffs have no locus standi for filing the present suit?OPD
4. Relief.

Thereafter, vide order dated 23.07.2011, following issues were framed in the consolidated suit:-

1. Whether the plaintiff is entitled to declaration as prayed for? OPP
2. Whether the plaintiffs are entitled to decree for permanent injunction as prayed for? OPP
3. Whether plaintiff has not come to the court with clean hands? OPD
4. Whether plaintiff had not affixed the proper court fee? OPD
5. Whether suit is bad for non-joinder of necessary parties? OPD
6. Whether suit of the plaintiff is time barred? OPD
7. Relief.

Trial Court, after going through the evidence led by the parties, partly decreed the suit with costs thereby restraining the defendant(s) (appellant herein) from raising construction over the suit property. Consolidated suit filed by present appellant, titled as 'Piara Singh vs. Jaswant Singh' was dismissed with costs. Appeal against the said judgment

also met the same fate.

While decreeing the suit of plaintiffs (respondent Nos.1 to 3 herein), both the Courts below have observed that Piara Singh had entered into an agreement to sell Ex.P1 with Karam Singh, Baljit Singh and Jaswant Singh. The said agreement contained a clause qua mortgage in favour of Butta Singh for a sum of Rs.40,000/-. The agreement was duly signed by Dalip Singh, witness Jagir Singh and both the parties. Plaintiffs have led evidence by proving on record copy of register Ex.P3, as per which, Piara Singh had put his thumb impression and had purchased stamp papers. Thereafter, mutation No.6338 Ex.PW6/A was sanctioned in favour of the plaintiffs. As per receipt Ex.PW6/B, Buta Singh had received an amount of Rs.40,000/-. Plaintiffs have also examined Swaran Singh (PW-1), who was the scribe of agreement to sell and the sale deed. Jasbir Singh, Stamp Vendor (PW-2) had proved that stamp papers were purchased by Piara Singh for execution of agreement to sell and sale deed. Amarjit Kaur (PW-3), widow of witness Dalip Singh, had proved signatures of Dalip Singh on the agreement to sell. Jaspal Singh, Naib Tehsildar (PW-5) had proved execution of sale deed by Piara Singh in favour of the plaintiffs. Darshan Singh, Registry Clerk (PW-8) had proved the sale deed. Mutation No.5919 had already been sanctioned on the basis of sale deed and partition proceedings were already pending.

Appellant-defendant has relied upon the receipt dated 16.06.2011, which was issued by Butta Singh to him, vide which, he had got the land redeemed. However, this receipt has not been given much emphasis as Butta Singh had received amount of Rs.40,000/- from the plaintiffs

(respondent Nos. 1 to 3 herein) as per receipt Ex.PW6/B, vide which, the

land stood already redeemed by the plaintiffs at the time of agreement to sell.

Learned counsel for the appellant has referred to the statement made by Buta Singh (DW-1), wherein he had denied the receipt Ex.PW6/B, which was issued to the plaintiffs.

A perusal of the judgment passed by trial Court shows that suit filed by the plaintiffs (respondent Nos.1 to 3 herein) as well as by defendant No.2-Piara Singh (appellant herein) were clubbed together and in the plaint of the suit filed by present appellant Piara Singh, he had admitted the thumb impression on the agreement to sell, but had submitted that they had been taken by playing fraud and misrepresentation. Onus to prove issue No.3 was on the defendants that plaintiffs had not come to the Court with clean hands. Appellant-defendant No.2 was required to lead sufficient evidence to show that actually, the land was got redeemed by him from Buta Singh on 16.06.2011 and the receipt Ex.PW6/B did not bear the signature of Buta Singh. However, no evidence was led to this effect.

After going through the impugned judgments, this Court is of the view that lower appellate Court has rightly affirmed the judgment passed by the trial Court and decreed the suit of the plaintiffs (respondent Nos. 1 to 3 herein), as they have proved on record that Piara Singh had executed the agreement to sell and sale deed in question in their favour, whereby he had sold the suit land to them. On the other hand, defendants (Piara Singh etc.) have failed to lead any cogent and convincing evidence to prove that any fraud, as alleged, has been played upon them. In these circumstances, no illegality, much less perversity, has been found in the impugned judgments,

warranting interference by this Court. The evidence has been appreciated in

the right perspective.

No substantial question of law arises for consideration in this appeal.

Dismissed.

25.01.2018  
ajp

**(RITU BAHRI)**  
**JUDGE**

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