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

RSA-2851-2019

Date of decision: 19.12.2023

Satnam Singh

...Appellant

Versus

Kamalpreet Singh and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. N.S. Dandiwal, Advocate for the appellant.

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**KARAMJIT SINGH, J. (ORAL)**

1. The present appeal has been filed by the appellant/plaintiff against the judgment and decree dated 30.10.2017 passed by the Court of Civil Judge (Junior Division), Moga whereby the suit filed by the appellant for grant of a decree for permanent injunction and mandatory injunction was dismissed and judgment and decree dated 04.01.2019 whereby the appeal filed by the appellant/plaintiff against the judgment and decree dated 30.10.2017 has been dismissed by the Court of Additional District Judge, Moga.

2. The brief facts of the case of the appellant are that the appellant purchased one Swift car No.PB-38-5300 from respondent No.1 Kamalpreet Singh for a sum of Rs.4.5 lacs on 05.11.2014. The appellant handed over one motor cycle worth Rs.40,000/- and Rs.2,000/- as earnest money against

proper receipt to respondent No.1. The appellant made another payment of Rs.3 lacs to respondent No.1 on 06.11.2014. However, the appellant was not in a position to pay the balance sale consideration. On this respondents pretended to help him and assured that they will get the loan sanctioned in his favour from some bank. On this pretext, respondents took 14 blank signed cheques from appellant and one blank cheque of his father Iqbal Singh as guarantor and another 14 blank cheques from Shamsher Singh being another guarantor. However, no bank loan was sanctioned in favour of the appellant and even the aforesaid blank cheques were not returned by the respondents. Further respondent No.1 also refused to hand over the relevant documents relating to aforesaid car which was purchased by the appellant from respondent No.1. Before the filing of the suit respondent No.1 also threatened to take forcible possession of the Swift car No. PB-38-5300. Hence, the suit was filed for permanent injunction restraining the respondents from taking into custody Swift car No. PB-38-5300, except in due course of law and for mandatory injunction directing the respondents to hand over aforesaid 14 blank cheques to appellant, one blank cheque to Iqbal Singh father of the appellant and 14 blank cheques to Shamsher Singh son of Anoop Singh and further directing the respondents to hand over the relevant documents of car in question to the appellant.

3. The suit was dismissed in default under Order 9 Rule 2 CPC against respondent No.2.

4. However, the suit was contested by respondent No.1 who filed written statement raising preliminary objection with regard to maintainability of suit, *locus standi* of appellant and accrual of cause of

action. On merits it was pleaded that respondent No.1 purchased car in question from Sukhbir Kaur wife of Harmander Singh. Appellant intended to purchase said car from respondent No.1 and its sale price was settled as Rs.4.5 lacs. The appellant gave Rs.2,000/- in cash as earnest money and also gave cheque for the remaining amount of Rs.4,48,000/- to respondent No.1. That later on appellant asked him not to present the said cheque with assurance that he will make cash payment of the balance amount. However, thereafter the appellant refused to make payment of the balance sale consideration to respondent No.1 and matter was also reported to the police and in the meantime, appellant filed the present suit. The other averments of the plaint were denied being wrong and it was pleaded that the suit be dismissed.

5. On the pleadings of the parties, the following issues were framed by the trial Court:-

1. Whether the plaintiff is entitled for the relief of permanent injunction as prayed for? OPP
2. Whether the suit of the plaintiff is not maintainable? OPD No.1
3. Whether the plaintiff has no locus standi or cause of action to file the present suit? OPD No.1
4. Whether the plaintiff is estopped by his own act and conduct from filing the present suit? OPD No.1
5. Whether the plaintiff has concealed the material facts from this Court and has not come to the Court with clean hands? OPD No.1
6. Relief.

6. In order to prove his case, appellant/plaintiff appeared in the witness box as PW-1 and also examined PW-2 Shamsher Singh.

7. On the other hand, defendant/respondent No.1 appeared in the witness box as DW-1 in order to rebut claim of the appellant.

8. After hearing the counsel for the parties, the trial Court dismissed the suit vide judgment and decree dated 30.10.2017 while holding that appellant has failed to prove that he purchased car in question for a sum of Rs.4.5 lacs and paid its entire sale consideration or that respondent No.1 took blank cheques from appellant, his father and one Shamsheer Singh.

9. Being aggrieved, appellant filed appeal against the aforesaid judgment and decree passed by the learned trial Court. The appeal was also dismissed by the Court of Additional District Judge, Moga while upholding the findings recorded by the learned trial Court.

10. Being dissatisfied, the appellant has filed the present appeal.

11. I have heard the counsel for the appellant.

12. The counsel for the appellant while assailing the impugned judgments passed by both the Courts below, *inter alia* contends that from the perusal of the testimony of PW-1 coupled with that of PW-2, it could be easily made out that respondent No.1 was owner of car in question and he sold the same to the appellant on 05.11.2014 for consideration of Rs.4.5 lacs. That out of the total sale consideration, the appellant handed over “+CD Deluxe motor cycle” worth Rs.40,000/- and another Rs.2,000/- to respondent No.1 as earnest money and thereafter, another amount of Rs.3 lacs was paid to respondent No.1 on 06.11.2014 in presence of PW-2 Shamsheer Singh. That with regard to balance amount, the respondent No.1 took blank signed cheques from appellant and also got one cheque from Iqbal Singh father of the appellant and another 14 blank cheques from

Shamsher Singh as a security. The counsel for the appellant further contends that respondent No.1 failed to hand over the documents relating to ownership of the car in question to the appellant and threatened to take forcible possession of the said car. That respondent No.1 also did not return the aforesaid blank cheques and rather lodged false criminal complaint against the appellant with the police. It is further contended that no reliable evidence was led by the respondent No.1 to rebut the aforesaid cogent and convincing evidence adduced by the appellant.

13. I have considered the submission made by counsel for the appellant.

14. The case of the appellant is that respondent No.1 agreed to sell his swift car with the appellant for consideration of Rs.4.5 lacs out of which he paid Rs.2,000/- in cash and also handed over his motor cycle worth Rs.40,000/- as earnest money to respondent No.1 vide separate receipt Ex.P-1. The trial Court while appreciating the said receipt which is a carbon copy, observed that it was relating to payment of Rs.2,000/- only and the words “+CD Deluxe motor cycle” were later on added in the said receipt as the same are not there in the receipt Ex.D-1 produced by respondent No.1. The trial Court further observed that there is alteration in receipt Ex.P-1 and that the appellant has approached the Court with soiled hands. The said findings recorded by the learned trial Court were also affirmed by the first appellate Court. Further both the Courts below also came to the conclusion that appellant has also failed to prove the payment of balance of sale consideration with regard to purchase of car. The appellate Court further observed that the car was not produced in the Court in order to establish that

its possession was ever handed over to the appellant by respondent No.1. The first appellate Court while referring to testimony of DW-1 coupled with copy of cheque worth Rs.4,48,000/- mark C issued by the appellant in favour of respondent No.1, memo mark B whereby the said cheque was dishonored on its presentation for want of sufficient funds in the bank account of appellant and copy of registration certificate of car in question mark D, came to the conclusion that payment of only Rs.2,000/- by appellant to respondent No.1 is established on the record. The first appellate Court further observed that Sukhbir Kaur was owner of the car in question as per registration certificate mark D.

15. Admittedly, PW-2 Shamsher Singh is brother in law of the appellant. So, no reliable evidence was adduced by the appellant in order to prove that certain blank cheques were taken by respondent No.1 from appellant, his father and PW-2 Shamsher Singh.

16. During arguments, the counsel for the appellant failed to point out any illegality or perversity in the concurrent findings recorded by both the Courts below, based on the correct appreciation of pleadings and evidence and are pure findings of facts, which are immune from challenge in the second appeal. Further, no question of law muchless any substantial question of law arises in the present appeal.

17. Consequently, the present appeal is hereby dismissed in limine, being devoid of merits. Pending applications, if any, also stand disposed of.

**19.12.2023**

*Yogesh*

**Whether speaking/reasoned:-  
Whether reportable:-**

**(KARAMJIT SINGH)  
JUDGE**

**Yes/No  
Yes/No**