

In the High Court of Punjab and Haryana, at Chandigarh

1. Second Appeal Order No. 20 of 2016 (O&M)

Ranjit Singh
... Appellant(s)

Versus

Indraj and Another
... Respondent(s)

AND

2. Second Appeal Order No. 21 of 2016 (O&M)

Ranjit Singh
... Appellant(s)

Versus

Kirpal Singh and Another
... Respondent(s)

DATE OF DECISION: 06.03.2024

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Ashok Singla and Mr. Aakash Singla, Advocates
for the appellant(s).

Mr. P.K.Ganga, Advocate
for respondent No.1 (In SAO-20-2016) and
for respondent No.2 (In SAO-21-2016).

Ms. Gurdeep Kaur, Advocate
for Mr. Harman Gill, Advocate
for respondent No.2 (In SAO-20-2016) and
for respondent No.1 (In SAO-21-2016).

Anil Kshetarpal, J.

1. These two connected second appeals have been filed to assail
the correctness of the impugned judgment of remand passed by the First
Appellate Court while remitting the case back to the Trial Court after

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identifying the additional issues.

2. These two appeals have been filed, one by the original owner, namely Kirpal Singh and another by the subsequent purchaser, namely Indraj. The plaintiff's suit for possession by way of specific performance of the agreement to sell was decreed by the Trial Court vide judgment and decree dated 25.02.2012. The First Appellate Court has found that the following additional issues were required to be decided:-

- “1. *Whether the agreement for sale deed dated 26.05.2005, allegedly executed by Shri Kirpal Singh in favour of Indraj, was anti-dated, manured and result of collusion? OPP.*
2. *Whether judgment and decree dated 19.09.2008 in the case titled as Indraj Versus Kirpal was illegal, based on fraud and liable to be set aside as alleged of the plaintiff? OPP.*
3. *Whether the sale deed dated 30.12.2008, Sr.No.2754 was illegal, void and liable to be set aside as alleged?OPP.*
4. *Whether Ranjeet Singh (respondent) in the present appeal and plaintiff in the Lower Court, had a lien on the amount of Rs.14,70,250/- (the balance sale consideration deposited by Indraj in view of judgment dated 19.09.2008) as claimed in para No.7 of the amended plaint?OPP.”*

3. Thereafter, the Appellate Court remitted the case back to the

Trial Court after setting aside its judgment and decree dated 25.02.2012.

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4. At this stage, the learned counsel representing the subsequent purchaser, on instructions from the son of Indraj, submits that he has no objection if the High Court sets aside the impugned order passed by the First Appellate Court and remit the case back to it to decide the matter in accordance with Order XLI Rule 25 of the Code of Civil Procedure, 1908. The learned counsel representing Kirpal Singh also has no objection.

5. Keeping in view the aforesaid development, both the appeals are allowed. The impugned order dated 11.01.2016 passed by the First Appellate Court is set aside. The First Appellate Court shall have the liberty to seek report from the Trial Court if found necessary on the additional issues and thereafter, it will proceed to decide the matter in accordance with law. The First Appellate Court is directed to make sincere endeavours for expeditious disposal of the appeal.

6. The parties through their learned counsel are directed to appear before the First Appellate Court on 08.04.2024.

7. The miscellaneous application(s) pending, if any, in both the appeals shall stand disposed of.

(Anil Kshetarpal)
Judge

March 06, 2024

“DK”

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No