

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****RSA-465-2025 (O&M)**
Date of Decision:28.02.2025**SUREMA DEVI**

... APPELLANT

Vs.

RAMESHWAR LAL

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:- Mr. Vikas Bali, Advocate, for the appellant.

DEEPAK GUPTA, J.

Suit for declaration regarding property in dispute measuring 10 marla, as detailed in head note of the plaint, filed by the plaintiff-Surema Devi (*appellant herein*) was dismissed by the trial Court on 25.09.2018. Appeal filed by her has been dismissed by the First Appellate Court on 30.11.2024.

2. Against this concurrent finding, plaintiff has approached this Court by way of the present Regular Second Appeal.

3.1 Admittedly, suit property was earlier owned by Phool Chand, late husband of the plaintiff. Plaintiff sought title over the suit property on the basis of the sale deed bearing wasika No.11950 dated 16.01.2001, executed by Phool Chand in her favour; and alleged that mutation No.5828 sanctioned on the basis of sale deed dated 22.06.1998 in favour of defendant was null and void.

3.2 Though defendant did not contest the suit and was proceeded *ex parte*, but the trial Court on the basis of *ex parte* evidence placed on record, found that it is the defendant, who was the owner of the suit property and challenge given by late Phool Chand to the sale deed dated 22.06.1998 in favour of the defendant had been dismissed by the Courts in

other litigation. Suit was accordingly dismissed. Said findings have been upheld by the Appellate Court.

4. Assailing the aforesaid concurrent findings, it is contended by Id. counsel that plaintiff-appellant is still in possession of the suit property; that suit of late Phool Chand was dismissed because of his *locus standi* to assail the sale deed dated 22.06.1998 and therefore, the suit as well as appeal have been wrongly dismissed by the Courts below.

5. After hearing learned counsel for the appellant and going through the entire paper-book, this Court does not find any merit in the contentions raised by him.

6. It has been found by the Courts below that late Phool Chand, husband of the plaintiff, had executed sale deed dated 22.06.1998 in respect of the suit property in favour of the defendant. Thereafter, he executed another sale deed dated 16.01.2001 in favour of his wife i.e. plaintiff. Said Phool Chand had earlier filed a Civil Suit No.262 of 2001 seeking declaration that sale deed dated 22.06.1998 registered on 23.06.1998 was null and void and result of fraud and further sought decree of permanent injunction. However, vide judgment dated 31.07.2008 (Annexure A3), the suit for declaration was dismissed, though suit for permanent injunction was decreed to the effect that he (Phool Chand) could not be dispossessed except in due course of law. Phool Chand preferred appeal. During pendency of the appeal, he expired and his legal heirs were brought on record, who included his wife-Surema Devi i.e. appellant of the present case. Said appeal was dismissed by the First Appellate Court on 30.05.2012 (Annexure A4). There is nothing on record to suggest that matter was taken any further by the Legal Representatives of Phool Chand.

7. Thus, Courts below have found that sale deed dated 22.06.1998 registered on 23.06.1998 (Ex.D1) has not been found to be the result of fraud or misrepresentation. Once it is found that said sale deed was not set aside on that ground, therefore, the impugned mutation No.5828 sanctioned in

favour of the defendant, based upon the said sale deed, has been rightly held to be valid. Subsequent sale deed dated 16.01.2001 executed by Phool Chand in favour of the plaintiff will not confer any right in her favour, as Phool Chand had already transferred his title in the suit property to the defendant.

8. In view of the aforesaid discussion, this Court does not find any ground to interfere in the well-reasoned concurrent findings of facts recorded by Courts below, which are based upon proper appreciation of evidence. There is no illegality or perversity in the impugned judgments. As such, finding no merit in the present appeal, the same is hereby dismissed.

Pending application(s), if any, stands disposed of.

28.02.2025

Vivek

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?

Whether reportable?

Yes

No