

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

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**RSA-690-2025 (O&M)
Date of decision: 05.03.2025**

DILBAG SINGH**..Appellant**

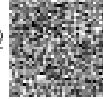
Versus

VIDYA (DECEASED) THROUGH LRS & ANR**..Respondents****CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present: Mr. Prateek Sodhi, Advocate
for the appellant.

ANIL KSHETARPAL, J(Oral)

1. This is defendant's regular second appeal against the concurrent findings of fact arrived at by the Courts below while decreeing plaintiffs suit for possession of house measuring 90 sq. yards. The appellant is son of respondent No.1 and brother of respondent No.2. Originally, the suit property belongs to Sh. Ajit Singh. The plaintiffs are widow and daughter of Sh. Ajit Singh. Sh. Ajit Singh during his lifetime transferred the property vide registered sale deed dated 05.05.1997 in favour of widow and a daughter. The defendant is son of Sh. Ajit Singh. Admittedly, the sale deed is in favour of widow and the daughter (plaintiffs) of Sh Ajit Singh. The plaintiffs filed the suit claiming decree of possession being owner of property by virtue of sale deed dated 05.05.1997. The defendant contested the suit on the strength of alleged transfer deed dated 01.01.2009. He also claimed that the sale deed executed by his father in favour of his mother and sister is forged. Both the Courts below have decreed the suit. The defendant-appellant failed to lead any cogent evidence to prove that the sale deed dated 05.05.1997 was the result of forgery or impersonation.



2. This Bench has heard the learned counsel representing the appellant at length and with his able assistance perused the paperbook.

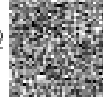
3. Learned counsel for the appellant has made the following submissions:-

i. The appellant has filed an application under Order XLI Rule 27 of the Code of Civil Procedure, 1908 (in short 'CPC') to produce a certified copy of the sale deed dated 05.05.1997, obtained from the Court. He submits that the plaintiffs filed a previous suit for grant of decree of permanent injunction, in which a certified copy of the sale deed was produced. He submits that there are differences in both the copies.

ii. The original sale deed dated 05.05.1997 has not been produced. The plaintiffs have also failed to prove the loss of the original. Moreover, the official from the Sub-Registrar's office has admitted that there is a mistake in the office of the Sub-Registrar while making entry in their record.

iii. In the sale deed dated 05.05.1997, the total amount of sale consideration is recited as Rs.16,500/-, whereas, plaintiff while appearing as a witness in the previous suit submits that she paid Rs.20,000/-. Moreover, the plaintiffs admitted that this sale deed was never produced during the lifetime of Sh. Ajit Singh.

iv. The present suit is barred under Order II Rule 2 of the 'CPC'.



4. This Court has considered the submissions of learned counsel for the appellant while analyzing the arguments.

5. With respect to application for permission to lead additional evidence, it may be noted that the certified copy of the sale deed dated 05.05.1997 is sought to be produced in evidence. The appellant has obtained the certified copy from the Court. A copy of copy is sought to be produced in additional evidence. The certified copy of the registered sale deed from the office of Sub-Registrar has been produced and exhibited on record. The correctness of the same has been proved by examining official from Registrar's office, who has verified the correctness of the aforesaid sale deed. Moreover, learned counsel for the appellant does not dispute that substantively there is no change in the sale deed because Sh. Ajit Singh has transferred the property in favour of his wife and daughter. Hence, there is no ground to permit the appellant to produce additional evidence particularly when his counsel failed to confront the official from the Sub-Registrar's office in this regard when he appeared in evidence. Once, the document is already taken on record and substance of the document remains the same, small difference/variation would not be sufficient to discard the authenticated copy issued and proved by the Registrar's office.

6. It is admitted that certified copy of a registered sale deed was produced in evidence. The correctness of the same was certified by PW-3, an official from the office of the Sub-Registrar. Hence, non-production of the original sale deed would not make any difference.

7. The receipt of sale consideration of Rs.16,500/- is acknowledged by Sh. Ajit Singh while executing the sale deed. Moreover, the sale was by the husband in favour of his wife and his daughter.



Subsequent oral statement after a sufficient passage of time would not affect the legality of the sale deed.

8. The suit for injunction was filed when defendant (appellant herein) threatened plaintiffs’ ownership, whereas, the suit for possession has been filed when they were dispossessed. Hence, filing the suits were based on different cause of action.

9. This Court appreciates the efforts of learned counsel for the appellant, who has tried to make out a case, which had no merit.

10. Dismissed accordingly.

11. All the pending miscellaneous applications, if any, are also disposed of.

March 05th, 2025

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(ANIL KSHETARPAL)
JUDGE

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