



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

**RSA No. 1501-1998 (O&M)
RESERVED ON: 13.08.2025
PRONOUNCED ON: 21.08.2025**

**BIR SINGH (VEER SINGH) DECEASED THROUGH HIS LRS AND
OTHERS**

.....APPELLANTS

Vs.

DHARAMBIR (DECEASED) THROUGH HIS LRS AND OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL

(As on the reserved date)

Present: Mr. R.A. Shoeran, Advocate,
for the appellants.

Mr. S.K. Bhardwaj, Advocate,
for the respondents.

AMARINDER SINGH GREWAL, J.

1. The present Regular Second Appeal has been filed by the appellants, being the legal representatives of Bir Singh (also known as Veer Singh) (since deceased), along with others, assailing the judgment and decree dated 16.03.1998 passed by the learned Additional District Judge, Bhiwani, whereby the appeal preferred by the appellants was dismissed, affirming the judgment and decree dated 10.06.1995 passed by the learned Sub Judge Ist Class, Bhiwani, dismissing the suit for permanent injunction filed by the appellant-plaintiffs.

2. The brief facts of the case are that the plaintiff Bir Singh and others instituted a suit for permanent injunction against the respondent Dharambir and others, seeking to restrain them from interfering with the



peaceful possession of the plaintiffs over the suit land measuring 24 ‘*Kanals*’ as detailed in the plaint. The plaintiffs averred that the defendants had sold the land in dispute to plaintiff Nos. 1 and 2 and to the predecessors-in-interest of plaintiff Nos. 3 to 7, for valuable consideration, vide registered sale deed No. 3554 dated 15.12.1976. It was further alleged that since then, the plaintiffs have been in cultivating and continuous physical possession of the suit land, and that the defendants have no right, title, or concern with the same, yet they are threatening to forcibly dispossess the plaintiffs therefrom, which they have no lawful authority to do.

2.1 Upon notice, the defendants appeared and filed their written statement, contesting the suit on the grounds that the plaintiffs had no *locus standi* to maintain the same; that the suit was not maintainable; and that the possession of the defendants over the suit land had become adverse.

2.2 Issues were framed by the learned lower Court. Thereafter, the plaintiffs examined as many as seven witnesses in support of their case, to prove the sale deed dated 15.12.1976 as well as the relevant revenue record. To controvert the claim of the plaintiffs, the defendants also led evidence. From the testimony of the defendants’ witnesses, it emerged that although the sale consideration of the suit property was ₹17,000/-, only a sum of ₹5,000/- had been paid in advance, while the remaining amount of ₹12,000/- was not paid at the time of registration of the sale deed, and consequently, the possession of the suit property was never delivered to the plaintiffs.



2.3 The learned Sub Judge Ist Class, Bhiwani, upon appreciation of the evidence led by the parties, dismissed the suit of the plaintiffs vide judgment and decree dated 10.06.1995. Thereafter, the plaintiffs preferred an appeal before the learned Additional District Judge, Bhiwani, challenging the aforesaid judgment and decree; however, the plaintiffs again remained unsuccessful, and the appeal was dismissed on 16.03.1998.

3. Learned counsel for the appellants has contended that both the Courts below have erred in holding that the possession of the respondents was open and hostile for more than twelve years and that they had become owners by way of adverse possession. It is urged that the said findings recorded by the Courts below are wholly erroneous, inasmuch as there is no evidence on record, not even in the oral testimony of a single witness, to establish that the respondents had become owners by way of adverse possession.

4. It is further submitted that the sale deed dated 15.12.1976 (Ex. P-1) stood duly proved by the attesting witness, PW-4 Manphool Singh. It is also urged that although the respondents-defendants had taken a plea before the learned Courts below that the total sale consideration was ₹17,000/-, out of which only ₹5,000/- was paid in advance and the balance amount was not paid at the time of registration of the sale deed dated 15.12.1976, yet the fact remains that the sale deed itself records that the entire sale consideration had been paid. It is further submitted that at the time of execution of the sale deed, possession of the suit property was also delivered to the appellants.



5. It is also submitted that since the sale deed dated 15.12.1976 is a registered document, there arises a presumption in law that the said document was validly executed. In this regard, learned counsel for the appellants has placed reliance upon the judgment of the Hon'ble Supreme Court of India in *Prem Singh and others v. Birbal and others*, 2006 (3) RCR (Civil) 381. Thus, it is contended that as the entire sale consideration of ₹17,000/- stood duly paid to the defendants, the defendants-respondents cannot be permitted to raise a plea that the balance consideration of ₹12,000/- had never been paid to them.

6. It is argued that the Courts below erred in holding that the remaining consideration of ₹12,000/- was not paid to the respondents-defendants. It is further submitted that the appellants have been in settled possession of the property, and upon the execution of the sale deed dated 15.12.1976, their possession stood protected. Accordingly, the judgments of the Courts below dated 10.06.1995, passed by the learned Sub Judge Ist Class, Bhiwani, and dated 16.03.1998, passed by the learned Additional District Judge, Bhiwani, being based on surmises and conjectures, are liable to be set aside and the appeal deserves to be allowed.

7. To the contrary, learned counsel for the respondents-defendants has submitted that the appellants failed to establish their possession over the suit property either on the basis of the revenue record or otherwise, and further, that the full sale consideration had not been paid to the respondents. It is, therefore, contended that the learned Courts below, upon due appreciation of the evidence on record, rightly dismissed the suit as well as the appeal filed by the appellants.



8. I have heard learned counsel for the parties and perused the paper-book.

9. On hearing the rival submissions and upon appraisal of the evidence, it emerges that although the sale deed dated 15.12.1976 (Ex. P-1) was placed before the learned Sub Judge Ist Class, Bhiwani, and PW-4 Manphool Singh, one of its attesting witnesses, was examined, yet in his cross-examination conducted by learned counsel for the respondents-defendants before the trial Court, PW-4 categorically admitted that the suit land was being cultivated by the defendants. He went to the extent of admitting that the defendants had never delivered possession of the suit land to the plaintiffs and, in fact, the defendants were the owners thereof.

10. The respondents-defendants also examined another attesting witness to the sale deed dated 15.12.1976 (Ex. P-1), namely, DW-2 Shiv Lal, who stated that no sale consideration had been paid in his presence. Even PW-4 Manphool Singh, despite being an attesting witness examined on behalf of the plaintiffs, admitted in his cross-examination that no consideration was paid in his presence.

11. In these circumstances, when both attesting witnesses deposed that no sale consideration had passed in their presence at the time of registration of the sale deed, and the plaintiffs also failed to examine the Sub-Registrar to establish that the balance sale consideration of ₹12,000/- had in fact been paid to the defendants, the learned Courts below rightly concluded that the full sale consideration had never been paid to the respondents-defendants and correctly held that the contract was not valid.



12. Thus, the judgment of the Hon’ble Supreme Court relied upon by learned counsel for the appellants in *Prem Singh’s case* (supra) is clearly distinguishable, for the reason that even though the sale deed dated 15.12.1976 (Ex. P-1) was placed before the learned Sub Judge Ist Class, Bhiwani, as discussed above, the same was never held to be a valid contract, inasmuch as the payment of full sale consideration to the defendants was never proved.

13. Further, the suit instituted by the plaintiffs was one for permanent injunction. The respondents, in rebuttal, produced copies of the *Jamabandi* for the years 1976-77 (Ex. D-1), 1981-82 (Ex. D-2), and 1991-92 (Ex. D-3), as well as copies of the ‘*Khasra Girdawries*’ (Ex. D-4 and Ex. D-5). All the entries in the revenue records established that the defendants were in settled possession of the suit land as co-sharers and were, in fact, cultivating the suit property.

14. In view of the aforesaid, this Court finds no reason to take a view different from that of the Courts below, whose findings are based on correct appreciation of both oral and documentary evidence. Furthermore, no substantial question of law arises for consideration in the present appeal. Accordingly, no ground for interference is made out, and the present Regular Second Appeal is dismissed. No order as to costs.

15. Pending miscellaneous application(s), if any, shall also stand disposed of.

AUGUST 21, 2025
nitin

(AMARINDER SINGH GREWAL)
JUDGE

Whether Speaking	Yes
Whether Reportable	No