

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****121****RSA-3012-2019 (O&M)****Date of decision: 08.04.2025****Labh Singh****...Appellant(s)****Vs.****Swaranjit Kaur and others****..Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA****Present:- Mr. R.S.Chauhan, Advocate for the appellant.***********NIDHI GUPTA, J.**

The plaintiff is in second appeal against the concurrent judgments and decrees of the learned Courts below; whereby the suit for possession filed by the plaintiff has been dismissed by both the Courts below.

2. The parties shall hereinafter be referred to as per their status before the learned trial Court i.e. the appellant is the 'plaintiff'; and respondents are the 'defendants'.

3. The brief facts of the case as pleaded in the plaint are that on 9.6.2000 Rachhpal Singh son of Balwant Singh son of Thakur Singh of village Bhagomajra, Tehsil Kharar, District Ropar now SAS Nagar entered into an agreement to sell for the sale of his plot measuring 11-1/2 marlas i.e. 23/252 share out of Khasra no.30//43(6-6), situated in village Bhagomajra, Tehsil Kharar, vide jamabandi for the year 1993-94 for a consideration of Rs.91,000/- and received the full payment on 9.6.2000 itself and executed a



receipt on the second page of the agreement to sell. On 9.6.2000 itself the seller Rachhpal Singh handed over the physical possession of the suit land and since then the plaintiff is in peaceful possession of the plot in dispute as owner. The plaintiff has constructed one room and a boundary wall around the plot purchased by him. On 9.6.2000, itself to cover up all the eventualities Rachhpal Singh also executed one General Power of attorney in favour of Jagdip Singh son of Labh Singh plaintiff; as also one registered Will in favour of plaintiff qua the suit property. Rachhpal Singh expired on 6.9.2007. Defendants no.1 to 4 are his legal heirs who have inherited his property. In the month of April 2008, the plaintiff enquired from the Halqa Patwari regarding the mutation of inheritance of said Rachhpal Singh and came to know that the mutation of land except Khasra no.30//43 has been sanctioned on 11.04.2008 in favour of defendants no.2 to 4 as per registered Will dated 3.5.2006. Thereafter, the plaintiff moved an application on 23.04.2008 before the Tehsildar Kharar for sanctioning the mutation of inheritance of Rachhpal Singh qua 11-1/2 Marlas out of Khasra No.30//43 in favour of the plaintiff as per Will dated 9.6.2000 registered on 12.06.2000. The report of the Patwari on the above said application revealed for the first time to the plaintiff that Rachhpal Singh had sold his whole share out of Khasra no.30//43 through several sale deeds during his lifetime. The plaintiff obtained the copies of latest sale deeds which are liable to be declared null and void having been executed after the execution of agreement to sell dated 9.6.2000 in favour of plaintiff. Hence, the present suit was filed on 05.06.2009.



4. On the pleadings of the parties, following issues were framed vide order dated 19.08.2013: -

“1. Whether the plaintiff is entitled to the relief of possession by way of specific performance of agreement to sell dated 9.6.2000 in dispute? OPP

2. Whether the plaintiff is entitled to the relief of permanent injunction as prayed for? OPP

3. Whether the suit of the plaintiff is not maintainable in the present form? OPP

4. Whether the suit is not properly valued for the purposes of court fees and jurisdiction? OPD

5. Whether the suit is barred by limitation? OPD

6. Relief.”

5. Upon appraisal of the pleadings and the evidence led by the parties, the Id. trial Court decided issues No. 1 and 2 against the plaintiff and in favour of the defendants; issues No. 3, 4 and 5 in favour of the plaintiff and against the defendants; and accordingly, vide judgment and decree dated 12.01.2015, the learned trial Court dismissed the suit of the plaintiff with costs. The appeal filed by the plaintiff was dismissed by the learned Additional District Judge, SAS Nagar Mohali vide judgment and decree dated 06.03.2019. Hence, the present second appeal.

6. Learned counsel for the appellant/plaintiff *inter alia* submits that Rachhpal Singh/predecessor in interest of defendants No. 1 to 4 was the owner of the land measuring 11 M. Rachhpal Singh had entered into an Agreement to Sell dated 09.06.2000 with the plaintiff in respect of the said suit land for which Rachhpal Singh had received total sale price of Rs.91,000/- itself on 09.06.2000. The possession was also handed over to



the plaintiff on 09.06.2000 and since then the plaintiff remained in continuous possession of the suit plot and thereafter has even raised construction of one room and a boundary wall around the plot. Rachhpal Singh had also executed a General Power of Attorney on 09.06.2000 Ex.P3 in favour of son of the plaintiff in respect of the suit property. As per the Agreement to Sell, time was not the essence of the contract, and it was upon the transferee to get the Sale Deed executed at any time. The General Power of Attorney was never revoked by Rachhpal Singh. Rachhpal Singh had also executed a Will dated 09.06.2000 Ex.P4 in favour of the plaintiff. Rachhpal Singh died on 06.09.2007 as evident from death certificate Ex.P5. Accordingly, plaintiff had approached the revenue authorities for sanctioning the mutation of inheritance qua the suit land on 23.04.2008. It is only then the plaintiff discovered that Rachhpal Singh had already sold his entire share by way of different Sale Deeds dated 05.07.2006, 27.04.2006, 23.01.2006 and 09.07.2005.

7. Learned counsel submits that the plaintiff had not only proved the due execution of Agreement to Sell Ex.PX but had also proved the Will Ex.P4 by producing Deed Writer Gagandeep Singh PW1 and one attesting witness of the Will Harpal Singh. It is submitted that the plaintiff brought to the notice of the learned Courts below all the material documents. Plaintiff had also proved his readiness and willingness for execution of Sale Deed as the entire sale consideration was proven to be paid to the vendor. As such, plaintiff was entitled for decree of specific performance. It is submitted that



in the above factual matrix, the suit of the plaintiff could not have been dismissed.

8. No other argument is raised on behalf of the appellant/plaintiff.

9. I have heard learned counsel for the appellant/plaintiff and perused the case file in great detail.

10. I find no merit in the submissions made on behalf of the plaintiff. It is admitted fact on record that Rachhpal Singh had expired on 6.9.2007. As such, any Power of Attorney executed by him in favour of the son of the plaintiff would be rendered ineffective and defunct. Moreover, it is established position in law that a mere Agreement to Sell would not confer any right or interest in the property in favour of any person. Furthermore, the Plaintiff would not be entitled to Specific Performance as Defendants No. 5 to 8 being bonafide purchaser for consideration and without notice are entitled to protection u/s 19(b) of Specific Relief Act because: a) Agreement to Sell (Ex.PX) is an unregistered document. It cannot, by itself amount to notice; b) admittedly, no publication was got issued by the plaintiff regarding Agreement (Ex.PX) from which the Defendants could have had the knowledge of the Agreement in question; c) There is no iota of evidence to show that Defendants had any knowledge about agreement Ex.PX. Even there is no averment in plaint to this effect, that defendants/subsequent purchasers had notice of the Agreement to Sell in favour of the plaintiff; d) The Registered sale deeds Ex.P7 to Ex.P10 dated 5.7.2006, 27.4.2006, 23.1.2006 and 9.7.2005 respectively executed in



favour of defendants 5 to 8 clearly shows that the entire sale consideration stood paid and possession was also given to the said defendants. Furthermore, the said Sale deeds being a public Document have a presumption of truth attached to them.

11. It is also relevant that the instant suit has been filed in 2009 i.e. after delay of 9 years from date of Execution of Agreement Ex.PX viz. 9.6.2000. During the lifetime of Rachhpal Singh the plaintiff made no effort to enforce the Document. The plaintiff has been unable to show as to why he did not press for execution of sale deed for a long period of 9 years i.e. from 9.6.2000 till 2009. Further, it is settled law the Agreement to Sell does not confer any right or interest in the property. In the absence of any conveyance deed duly stamped and registered no right in the suit property can be transferred.

12. In view of the above, the present regular second appeal is hereby **dismissed**.

13. Pending application(s), if any, stand disposed of.

08.04.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No