**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****211****RSA-3875-1998 (O&M)****Date of decision: 04.08.2025****Imarti @ Sharbati****...Appellant(s)****Vs.****Mahabir Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

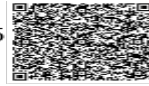
Present:- Mr. Amit Jain, Sr. Advocate with
Mr. Parit Aggarwal, Advocate for the appellant.

Mr. Purusharth Dhull, Advocate for
Mr. Rajinder Goel, Advocate
for respondents No. 2 to 8.

NIDHI GUPTA, J.

Present Second Appeal has been filed by the plaintiff against the concurrent judgments and decrees of the Courts below; whereby the suit filed by the appellant for declaration with consequential relief of injunction, has been dismissed by both the Courts below.

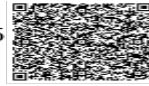
2. Briefly, the facts as stated by the plaintiff in the plaint are that she is owner in possession of suit land as described in the plaint. It is pleaded that the defendants No. 2 to 8 claimed they had purchased the suit land through a registered Sale Deed dated 30.01.1973 from defendant No.1 who had acted as GPA holder of the plaintiff on the basis of GPA dated 17.01.1973. Plaintiff had denied the validity of the said documents pleading that at the time of execution of alleged GPA and Sale Deed, she was minor as she was born on 29.04.1958. Therefore, any document



executed on her behalf prior to her attaining the age of majority is illegal and void. Plaintiff had further pleaded that she was known by the name of Sarbati during her childhood. Accordingly, a declaration was sought that the said documents are illegal, null, and void. However, the Id. Courts below non-suited the plaintiff on the basis of the evidence on record.

3. It is submitted by learned Senior Counsel appearing on behalf of the appellant/plaintiff that the learned Courts below were in error in dismissing the suit of the plaintiff as they failed to appreciate that plaintiff had adduced sufficient evidence to prove that she was known by the name of Sarbati in her childhood. It is submitted that in fact Sarbati and Imarti are one and same person. However, the learned Courts below have failed to appreciate this fact. It is submitted that plaintiff is 3rd daughter of Lakhpat Singh and her date of birth is proved to be 29.04.1958 from the birth certificate Ex.P6. Findings of Courts below to the contrary are not in consonance with the documentary and oral evidence on record. The appellant had produced all entries relating to children of Lakhpat Singh; whereby age of the appellant was conclusively proved. However, the Courts below have misread and misconstrued the documents on record.

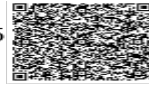
4. It is also submitted that learned Courts below have erred in ignoring that once there is a fiduciary relationship, execution of Sale Deed cannot be said to be act of management; and therefore, the same is not binding on the executant of the attorney. It is accordingly prayed that the present Second Appeal be allowed; and the impugned judgments and decrees of the learned Courts below be set aside.



5. *Per contra*, learned counsel for respondents No. 2 to 8 vehemently opposes prayer made on behalf of the appellant and submits that there is sufficient oral and documentary evidence on record which has been discussed in detail by the learned Courts below on the basis of which finding has been given that: a) plaintiff was unable to prove that Imarti and Sarbati are one and the same person; and b) the plaintiff was minor on the date of execution of Sale Deed and/or GPA. Moreover, the defendants No. 2 to 8 are recorded as owners in possession of suit property as per revenue record. Even otherwise, plaintiff is not in possession of suit property and therefore not entitled to injunction. It is accordingly prayed that the present appeal be dismissed.

6. No other argument is raised on behalf of the parties. I have heard learned counsel and perused the case file in great detail.

7. I find not merit whatsoever in the submissions made on behalf of the appellant/plaintiff. There is voluminous evidence on record that establishes that plaintiff Imarti was never known by the name of Sarbati in her childhood; nor she was born on 29.04.1958. In support of her claim, plaintiff had produced birth certificate Ex.P6 showing her to be born on 29.04.1958. However, in another civil litigation in case titled as “Partap Singh vs. Feteah Singh Mahabir Singh, Rohtash Singh, Barfi, Imarati Misri”, the Civil Appeal No. 10 of 1972 against the judgment and decree dated 01.01.1972, was dismissed on 22.08.1972 by learned District Judge Gurgaon. In the said case, plaintiff Imarti is shown to be major and as the 2nd daughter of Lakhpat Singh. Similarly, in yet another Civil Suit decided



on 02.03.1972 Ex.DA and Ex.DB, plaintiff is again shown as major. In all the above said proceedings, only Imarti is mentioned, without alias Sarbati. Reference is made to (Ex.P4), which is judgment dated 10.2.1982 passed in Civil Suit No. 359 dated 13.12.1979 titled as “Ganga Bishan and Suraj Bhan Vs. Smt. Misri, Rohtash & Mahabir”, filed for permanent injunction; and the certified copy of the judgment Ex.P3 passed by learned first appellate Court against the abovesaid judgment in the Civil Appeal No. 12/13 of 1982 decided on 18.01.1983. Perusal of the said judgments show that in the said suit Sarbati was shown as 3rd daughter who was born on 29.04.1958. No mention is made in the said suit that Sarbati is also known as Imarti.

8. Thus, it was proven that except the present suit, the plaintiff/Imarti never claimed herself to be known as Sarbati; nor she was born on 29.04.1958 as she was continuously claiming that she had attained majority since 1972 by entering into various Agreement to Sell, as well as mortgaging the suit property and executing the GPA etc. Thus, plaintiff is unable to prove that she was minor at the time of execution of GPA on 17.01.1973 as, in the abovesaid previous litigations, she has shown herself to be major in the year 1972.

9. On the other hand, defendants had produced revenue recording including Jamabandi for the year 1981-82 of the suit land; wherein defendants No. 2 to 8 are recorded as owners in possession of the suit land. Moreover, defendants have already been declared owners of suit land by Court vide judgment and decree dated 02.03.1973 (Ex.DA and



Ex.DB). Needless to say, the said judgments and decrees are binding upon the plaintiff. She cannot seek to challenge the same by way of subsequent/ present suit. It is also proven on record that plaintiff is not in possession of suit land. Therefore, as per law, she was not entitled to injunction.

10. Learned counsel for the appellant is unable to dispute or controvert the above said facts or findings.

11. In view of the above, no ground is made out to interfere in the concurrent judgments and decrees of the learned Courts below.

12. The present Regular Second Appeal is hereby **dismissed**.

13. Pending applications, if any, stand disposed of.

04.08.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

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