



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

122**RSA-1346-2023 (O&M)****Date of Decision : 29.01.2025**

PARVEEN KUMAR

.... Appellant

VERSUS

MAYA DEVI

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Ajay Gupta, Advocate and
Mr. Vishal Walia, Advocate for the appellant.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the plaintiff-appellant challenging the judgment and decree dated 17.11.2022 passed by the Trial Court and the judgment and decree dated 02.02.2023 passed by the First Appellate Court.

2. The brief facts relevant to the present *lis* are that the plaintiff-appellant herein filed the present suit for specific performance of the agreement to sell dated 19.07.2011 qua 100 square yards of land comprised in Khasra No.29/20/1/6 min situated in the area of Village Akbarpur Barota, District Sonipat. It was averred in the plaint that the defendant-respondent entered into an agreement to sell with the plaintiff-appellant qua 100 square yards of land, as described above, for a total sale consideration of ₹2,10,000 (rupees two lakh and ten thousand) and full and final payment was made on 19.07.2011 itself in the presence of witnesses and a receipt was executed in this regard. It was further averred that physical possession was also handed

over to the plaintiff-appellant who constructed a boundary wall around the said plot. It was further averred that a gift deed in favour of the defendant-respondent was also handed over to the plaintiff-appellant at the time of execution of the agreement to sell. Since the sale deed was not being executed, a legal notice was issued on 17.11.2024. Reply was sent by the defendant-respondent which was evasive. It was further the case set up that though the plaintiff-appellant came present in the Office of the Sub-Registrar on 01.12.2014, however, the defendant-respondent did not turn up.

3. In the written statement filed by the defendant-respondent various preliminary objections were raised qua the suit not being maintainable as the suit was a result of collusion between the plaintiff-appellant and Rajesh Kumar by preparing a forged and fabricated agreement to sell and receipt dated 19.07.2011. It was further the case that the suit was barred by limitation as the same was filed on 12.12.2014. On merits the execution of the agreement to sell was denied and so was the receipt of ₹2,10,000 (rupees two lakh and ten thousand). It was further the case that the defendant-respondent was an illiterate and simpleton lady and she belongs to a very poor family. Her husband had died many years ago and she was in urgent need of ₹70,000 (rupees seventy thousand). She approached the plaintiff-appellant for a loan on 01.05.2009. The plaintiff-appellant obtained the thumb impression of the defendant-respondent on many papers. He also got two affidavits on stamp papers and fraudulently got an amount of ₹1,00,000 (rupees one lakh) written on the stamp paper. The original gift deed in favour of the defendant-respondent was given as a security for the

repayment of the amount of ₹70,000 (rupees seventy thousand). It was further the case that the defendant-respondent was in actual physical possession of the suit property and that the possession was never delivered to the plaintiff-appellant as alleged.

4. On the basis of the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to the relief of decree for specific performance of the agreement to sell dated 19.07.2011 ? OPP
2. Whether the plaintiff is entitled to the relief of decree for permanent injunction restraining the defendant from interfering into the peaceful possession and use of the plaintiff of the plot in suit detailed in Para No.1 of the plaint and further from dispossessing the plaintiff from the said plot illegally and forcibly or in any other manner whatsoever for all time to come ? OPP
3. Whether the suit of the plaintiff is not maintainable in its present form ? OPD
4. Whether the suit of the plaintiff is time barred ? OPD
5. Whether the plaintiff has no *locus standi* to file the present suit ? OPD
6. Whether the plaintiff has no cause of action to file the present suit ? OPD

7. Whether the plaintiff has not come to the Court with clean hands ? OPD

8. Whether the present suit is not properly valued for and no proper Court fees has been affixed ? OPD

9. Whether the plaintiff is estopped by his own act and conduct to file the present suit ? OPD

10. Relief.

5. The Trial Court dismissed the suit vide judgment and decree dated 17.11.2022 on merits as well as on the question of limitation. Aggrieved by the same an appeal was preferred by the plaintiff-appellant which appeal was also dismissed by the First Appellate Court vide judgment and decree dated 02.02.2023. Hence, the present regular second appeal by the plaintiff-appellant

6. The learned counsel for the plaintiff-appellant would contend that both the Courts have erred in dismissing his suit. It is urged that the plaintiff-appellant is not pressing the relief of specific performance however he would be satisfied if the amount is returned. On merits the learned counsel for the plaintiff-appellant would contend that the agreement to sell was duly proved as was the receipt. It is further the contention that one of the witnesses PW-1, namely, Pawan Kumar had stepped into the witness box and proved the execution of the agreement to sell.

7. Heard.

8. In the present case the alleged agreement to sell dated 19.07.2011 (Ex.PW-1) reveals that the first page of the agreement to sell was

typed on a manual typewriter and the second page was typed on a Computer. There is no explanation forthcoming for the said fact. Further still, PW-1 namely, Pawan Kumar who is one of the attesting witnesses stated that the agreement to sell was typed on a typewriter however he could not give the details as to where the agreement was got typed from. Kapil, who is another attesting witness to the agreement to sell, stepped into the witness box as PW-3. He, however, stated that his signatures were taken on blank papers and thus denying the execution of the agreement dated 19.07.2011. Further the gift deed (Ex.P-2) in favour of the defendant-respondent by the Gram Panchayat clearly reveals that there was a complete bar from transferring the land and it was stated that in case the land was transferred the Government of Haryana would have the right to cancel the same. Even otherwise there is not an iota of evidence on the record to prove that the said amount was received by the defendant-respondent. Besides the receipt nothing had been produced on the record to show that the amount was ever received by the defendant-respondent. In the absence of any evidence, no fault can be found with the judgments and the decrees passed by both the Courts concerned.

9. In view of the above, I do not find any merit in the present appeal. No question of law, much less any substantial question of law, arises for determination in the present case. The appeal being devoid of any merits is accordingly dismissed. Pending applications, if any, also stand disposed off.

29.01.2025

Aman Jain

(ALKA SARIN)

JUDGE

NOTE:

Whether speaking/non-speaking: Speaking

Whether reportable: Yes/No