

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****147****CR-2380-2025 (O&M)****Reserved on : 30.09.2025****Pronounced on : 28.10.2025**

Jitender Singh

....Petitioner

VERSUS

Sanjeev

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. R.D. Gupta, Advocate for the petitioner.

ALKA SARIN, J.

1. Present revision petition has been filed by the plaintiff-petitioner challenging the order dated 16.04.2025 passed by the First Appellate Court whereby the order dated 16.12.2024 passed by the Trial Court has been reversed.

2. Briefly stated the facts relevant to the present *lis* are that the plaintiff-petitioner herein filed a suit for possession by way of specific performance and permanent injunction *qua* agreement to sell dated 05.04.2024 *qua* land measuring 08 Kanals 10 Marlas situated in the revenue estate of village Badha, Tehsil and District Palwal as fully described in the plaint. The total sale consideration for the property is stated to be ₹23,37,500/-. It was averred in the plaint that an amount of ₹1,00,000/- had been paid as earnest money out of which ₹50,000/- was paid in cash and ₹50,000/- by way of cheque. It was further averred in the plaint that the possession had been delivered to the plaintiff-petitioner at the time of the agreement to sell. Initially the defendant-respondent remained unserved as the Process Server gave a

report of refusal. In the order dated 01.08.2024 passed by the Trial Court vide which the defendant was proceeded against *ex parte*, there is no reference to an affixation having been done in the case of refusal. On 02.08.2024 the plaintiff-petitioner is alleged to have tried to take illegal possession of the suit property, and the defendant-respondent is alleged to have made a call on 112 and moved an application to the SHO, Police Station Sadar Palwal on 03.08.2024. It was only then that the pendency of the suit came to his knowledge. Thereafter, an application was filed for setting aside the *ex parte* proceedings, which was allowed vide order dated 24.09.2024. Written statement was filed by the defendant-respondent wherein the stand taken was that the suit property was valued for more than ₹2,00,00,000/- and that no cheque was ever received by the defendant-respondent and that the same was deposited by the plaintiff-petitioner directly in the Bank account of the defendant-respondent. It was further the stand taken that no agreement to sell was ever executed and he did not purchase any stamp-paper. While purchasing the stamp-paper the plaintiff-petitioner had given his own mobile number instead of the defendant-respondent so that the OTP would not reach the defendant-respondent. It was further averred that the photograph which had been affixed on the agreement to sell is a photograph of the defendant-respondent clicked by the plaintiff-petitioner in the car wearing sunglasses and it was not a regular passport-size photograph. Replication was filed to the written statement. Vide order dated 16.12.2024 the interim injunction application was allowed, and the defendant-respondent was restrained from selling, transferring, alienating or creating any third-party interest or from disposing off the property. Aggrieved by the same, an appeal was preferred by the defendant-respondent, which appeal was allowed by the First Appellate

Court vide order dated 16.04.2025. Hence, the present revision petition by the plaintiff-petitioner.

3. The present revision petition was initially filed by some other counsel. Earlier vide order dated 08.05.2025 the application being CM-8880-CII-2025 for preponement was dismissed. Thereafter, a second application being CM-12642-CII-2025 was filed by a second counsel which application was dismissed as withdrawn vide order dated 10.07.2025. Thereafter, Mr. R.D. Gupta, Advocate had put in appearance on behalf of the plaintiff-petitioner and on 14.07.2025 the following order was passed :

“The present revision petition was filed in April 2025. On 23.04.2025 none appeared on behalf of the petitioner since the lawyers were abstaining from work. On 29.04.2025 the case was adjourned to 14.07.2025 as neither the application under Order 39 Rules 1 and 2 CPC nor the plaint had been appended with the present petition. Thereafter an application for early hearing was filed which was adjourned to 08.05.2025. On 08.05.2025 the application for early hearing was dismissed. Thereafter Mr. Viresh Dahiya, Advocate had appeared on behalf of the petitioner and had filed applications being CM-12642-CII-2025 and CM-12643-CII-2025, once again for early hearing. The said applications were dismissed as withdrawn on 10.07.2025.

Today the main case is listed. Learned counsel for the petitioner, on queries raised by the Court regarding the issues framed and the affidavit in examination-in-chief

tendered by the petitioner, states that he neither has the copy of the issues nor the statement. Learned counsel further states that since the documents were missing, therefore, he had requested in the morning for withdrawal of the present revision petition for filing afresh with better particulars. This Court had earlier in the pre-lunch session categorically stated that withdrawal would not be permitted as the counsel had not been able to point out to any technical defect in this petition.

Faced with the same, learned counsel for the petitioner seeks some time to place on record the relevant documents. On his request, adjourned to 30.09.2025.”

4. Thereafter, an application being CM-19874-CII-2025 was filed for placing on record various documents.

5. Learned counsel for the plaintiff-petitioner would contend that no perversity has been pointed out by the First Appellate Court while substituting its wisdom and reversing the order passed by the Trial Court. It is further the contention that the defendant-respondent is trying to sell the suit property, which is apparent from the photograph (Annexure P-15) which has been appended with the application (CM-19874-CII-2025). It has further been contended that an amount of ₹50,000/- was deposited by way of cheque, hence, a *prima facie* case is made out in favour of the plaintiff-petitioner. Learned counsel for the plaintiff-petitioner has relied upon the judgments of the Hon'ble Supreme Court in the cases of **Ramakant Ambalal Choksi vs. Harish Ambalal Choksi & Ors. [2025 (2) RCR (Civil) 74]**; **Anand Prasad Agarwalla vs. Tarkeshwar Prasad & Ors. [2001 (3) RCR (Civil) 271]** and

that of this Court in case of **Nirbhay Singh Brar & Anr. vs. Jagdeep Singh Dhindsa & Anr. [2023 (2) RCR (Civil) 236]** and that of the Patna High Court in the case of **Nabo Narayan Jha vs. Kamlesh Jha & Ors. [2023 Air CC 2417]**.

6. I have heard the learned counsel for the plaintiff-petitioner and perused the paper-book.

7. In the present case, as is apparent from the order reproduced above, two applications were filed for preponement by two different lawyers. One was dismissed and the other was dismissed as withdrawn. Thereafter, a third counsel has put in appearance. Initially an attempt was made to withdraw the present petition, which was not permitted by this Court as noticed in the order dated 14.07.2025.

8. The *zimni* orders have been accessed from the e-Court website of District Courts Palwal as the same were not appended with the petition. A perusal of the same would reveal that the defendant-respondent was proceeded against *ex parte* on the ground that he refused to accept the notice. A perusal of the order dated 16.04.2025 passed by the First Appellate Court reveals that one set of summons was sent through Police Station Sadar Palwal, which stated that it could not be served due to lack of time, and the second summon, which was allowed to be served *dasti*, had a report of refusal and that even the pasting of summon was not allowed. The Trial Court passed an *ex parte* interim injunction order dated 01.08.2024. Thereafter, the plaintiff-petitioner is stated to have forcibly tried to enter the suit property, and a police complaint was lodged in this regard. Since no action was taken by the police, an application was filed under Section 156(3) CrPC/Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 before the Area Magistrate. The

police subsequently filed a report including the statements of the plaintiff-petitioner and his associate including Satpal @ Yashpal, who is stated to be a friend of plaintiff-petitioner and posted as a Clerk in the Court indicating their collusion in attempting to wrongfully take over the suit property of the defendant-respondent.

9. The defendant-respondent in his written statement has denied his signatures on the agreement to sell and has also taken a specific stand that no cheque was taken and deposited by him and that the same was deposited by the plaintiff-petitioner himself. It is also significant to note that the counsel before the First Appellate Court representing the plaintiff-petitioner made a categorical statement contrary to the pleadings in the plaint that the plaintiff-petitioner was not in possession of the suit property and was seeking possession through a decree of specific performance.

10. There were two reports which were brought on the record - one by the plaintiff-petitioner of the handwriting expert stating that there was no forgery, and another report, which was placed on the record by the defendant-respondent, given by the Sherlock Institute of Forensic Science, Delhi which found notable dissimilarities and concluded that the signatures were forged. The First Appellate Court while reversing the order passed by the Trial Court has noticed that the mobile number given on the stamp-paper is that of the plaintiff-petitioner against both the seller and buyer. Even the photograph attached on the agreement *prima facie* shows that the same is not a passport-size photograph since it shows the plaintiff-petitioner wearing sunglasses and was clicked in a car. The copy of the cheque, which is stated to have been deposited, bears the phone number of the plaintiff-petitioner on the reverse and not of the defendant-respondent.

11. The Trial Court while allowing the injunction application noticed the facts in para Nos.1 to 6. Para No.7 notices the basic ingredients for grant of *ad interim* injunction. Para No.8 refers to the judgment in the case of **Anand Prasad Agarwalla** (supra). Para No.9 is infact verbatim reproduction from the judgment in the case of **Ramakant Ambalal Choksi** (supra) though interestingly it has not been shown as a reproduction. In para No.10 the Trial Court has held that the Trial Court is not required to go into the adequacy of the sale consideration. In para No.11 it has been held that the agreement to sell and the receipt bears the signatures of the defendant-respondent and that the defendant-respondent had admitted that the plaintiff-petitioner had made a payment of ₹50,000/- through cheque in his account and that the plaintiff-petitioner has proved his readiness and willingness to perform his part of the contract by producing the copy of the affidavit dated 04.07.2024. Para No.12 is yet again a reproduction from the judgment of the Hon'ble Supreme Court in the case of **Union of India vs. M/s Chaturbhai M. Patel [1976 AIR SC 712]** and in the last line of the said paragraph it has been held that the balance of convenience lies in favour of the plaintiff-petitioner since he had paid ₹1,00,000/- as earnest money. In para No.13 it has been stated that the defendant-respondent would not suffer any irreparable loss as the defendant-respondent has admitted that he has no plans to alienate the suit property. Thereafter, there is a reproduction from the judgment in the case of **Ramakant Ambalal Choksi** (supra). On the contrary the First Appellate Court has dealt with in detail the facts as are apparent from the file as well as the pleadings. Even though it has not been spelled out in so many words that the order is perverse on such grounds, however, the grounds for reversing clearly reveal the perversity in the order passed by the Trial Court.

12. The Court while granting temporary injunction is to see whether a *prima facie* case is made out and there would be irreparable injury and that there is balance of convenience in favour of the plaintiff-petitioner. The judgment in the case of **Ramakant Ambalal Choksi** (supra), which has been referred to by learned counsel for the plaintiff-petitioner himself, clearly lays down that the Court not only has to record its satisfaction that a *prima facie* case is made out while granting injunction but has also to satisfy itself that non-interference by the Court would result in “irreparable injury” to the party seeking relief. It has been held that irreparable injury does not mean that there must be no physical possibility of repairing the injury but means only that the injury must be a material one, namely, one that cannot be adequately compensated by way of damages. It has further been held that the third condition was that the balance of convenience must be in favour of granting injunction. As noticed above, there is no *prima facie* case which has been made out by learned counsel for the plaintiff-petitioner. The First Appellate Court has dealt with all the glaring facts, which are apparent on the face of the record. Though the plaintiff-petitioner has come to the Court stating that he was in possession of the suit property, however, as noticed by the First Appellate Court, no *prima facie* evidence was there to even remotely suggest that he was in possession of the suit property. Infact, it has been noticed in the order passed by the First Appellate Court that the counsel, contrary to the pleadings, had stated that the plaintiff-petitioner was not in possession of the suit property and that he was seeking possession through a decree of specific performance. In the written statement it has come on the record that the plaintiff-petitioner tried to trespass the suit property and a police complaint

was registered in this regard and since no action was taken a complaint was filed by the defendant-respondent.

13. In totality, if the facts as narrated above are analyzed, neither is there a *prima facie* case in favour of the plaintiff-petitioner nor the balance of convenience lies in his favour nor can it be said that any irreparable injury would be caused to the plaintiff-petitioner in case the injunction, as prayed for, is not granted. The doctrine of *lis pendens* (Section 52 of the Transfer of Property Act, 1882) protects against third-party claims during litigation. Though learned counsel for the plaintiff-petitioner has pointed out to a photograph (Annexure P-15) to state that the suit property was being sold by the defendant-respondent, however, the learned counsel for the plaintiff-petitioner was unable to co-relate the said Board as shown in the photograph with the defendant-respondent as the defendant-respondent in the present case has been arrayed as 'Sanjeev' whereas the photograph shows that the property belongs to one 'Sanjeev Takru'. Even otherwise, it cannot be co-related to the suit property. Once the counsel for the plaintiff-petitioner had made a statement that the plaintiff-petitioner was not in possession of the suit property, the question of granting injunction in favour of the plaintiff-petitioner from restraining the defendant-respondent from dispossessing the plaintiff-petitioner would not arise. The injunction qua creating third-party rights in the absence of any *prima facie* case, balance of convenience and irreparable injury, would be protected by the provisions of Section 52 of the Transfer of Property Act, 1882. There can be no dispute with the principles of law as laid down in the case of **Ramakant Ambalal Choksi** (supra). The law laid down in the said judgment clearly states that there should be a *prima facie* case, element of irreparable injury and balance of convenience. In the present

case, as discussed above, all the three ingredients are woefully missing. The judgment relied upon by the learned counsel for the plaintiff-petitioner in the case of **Nirbhay Singh Brar** (supra) would not come to his aid as the same is totally distinguishable on facts as in the said case injunction was sought against a true owner from carrying out duly sanctioned and authorized construction on his own property. The judgments relied upon by the learned counsel for the plaintiff-petitioner in the cases of **Anand Prasad Agarwalla** (supra) and **Nabo Narayan Jha** (supra) would also not come to his aid as the same are also totally distinguishable on facts.

14. It would be a travesty of justice if on averments of payment of a mere ₹1,00,000/- as earnest money an injunction is granted qua the suit property worth ₹2,00,00,000/- in a case where such payment is not even prima facie proved from the pleadings and is also not admitted by the defendant-respondent in his written statement. In any case, a statement was made by the counsel for the defendant-respondent before the Trial Court, which has been noticed in para 13 of order dated 16.12.2024, that the defendant-respondent had admitted that he has no plans to alienate the suit land. In view thereof, no fault can be found with the order passed by the First Appellate Court.

15. In view of the above, the present revision petition being devoid of any merit is dismissed. Pending applications, if any, also stand disposed off. Any observations made herein shall not be treated as an expression of opinion on the merits of the case.

28.10.2025

jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO