

2025:PHHC:005321



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

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RSA-1379-2024 (O&M)

Date of Decision : 15.01.2025

KRISHAN KUMAR @ RINKU

.... Appellant

VERSUS

RAJESH KUMARI @ RAJESH RANI

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Akash Mehta, Advocate for the appellant.

Mr. Sukhandeep Singh, Advocate for the caveator-respondent.

ALKA SARIN, J. (ORAL)

1. The present appeal has been preferred by the defendant-appellant challenging the judgment and decree dated 20.12.2022 passed by the Trial Court and the judgment and decree dated 15.03.2024 passed by the First Appellate Court.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent herein filed a suit for possession and damages of ₹3,00,000 (rupees three lakh) as an indigent person and further for permanent injunction. The suit was filed for possession of the suit land/house consisting of three rooms, open yard, *dehliz*, chabutra situated within the Abadi of Village Shahpur, Tehsil Pehowa, District Kurukshetra as also for recovery of compensation of ₹3,00,000 (rupees three lakh). It was averred in the plaint that vide judgment and decree dated 15.04.1994 the plaintiff-respondent had become owner of the suit property. However, the defendant-appellant was

not permitting the plaintiff-respondent to enter into the house and claimed himself to be owner of the house. It was further the case that taking advantage of the absence of the plaintiff-respondent, the defendant-appellant herein had demolished two rooms situated on the Western side in the site plan dated 22.03.1994 and caused a loss of ₹3,00,000 (rupees three lakh).

3. In the written statement filed by the defendant-appellant herein it was the case set up that the defendant-appellant had purchased the suit property from the previous owner, namely, Harvel Singh vide agreement to sell dated 03.12.2010 and taken possession of the same. It was further the case that the said agreement was executed for an amount of ₹1,15,000 (rupees one lakh fifteen thousand) in the presence of the witnesses and after purchasing the same, the defendant-appellant had constructed a house and spent ₹25,00,000 (rupees twenty-five lakh) on the construction.

4. Replication was not filed. From the pleadings of the parties the following issues were framed :

1. Whether the plaintiff is entitled to a decree for possession of the suit land/house fully detailed in para No.2 of the plaint ? OPP
2. Whether the plaintiff is entitled to a decree for compensation of ₹3,00,000 with interest ? OPP
3. Whether the plaintiff is entitled to a decree for permanent injunction restraining the defendant from alienating the suit land/house ? OPP

4. Whether the suit of the plaintiff is not maintainable ? OPD
5. Whether the plaintiff has no *locus standi* and cause of action to file and maintain the present suit ? OPD
6. Whether the suit of the plaintiff is hopelessly time barred ? OPD
7. Whether the plaintiff is estopped by her own act and conduct to filing the present suit ? OPD
8. Whether the plaintiff has concealed true and material facts from the Court, if so, to what effect ? OPD
9. Relief.

5. The Trial Court vide judgment and decree dated 20.12.2022 decreed the suit of the plaintiff-respondent for possession as well as for recovery of the damages. Aggrieved by the same an appeal was preferred by the defendant-appellant, which appeal was partly allowed by the First Appellate Court vide judgment and decree dated 15.03.2024 to the extent that the plaintiff-respondent was held entitled to possession, however, she was not held entitled for recovery of compensation of ₹3,00,000 (rupees three lakh). Hence, the present regular second appeal by the defendant-appellant.

6. Learned counsel for the defendant-appellant would contend that the Courts have erred in decreeing the suit of the plaintiff-respondent. It is

urged that the defendant-appellant had become owner of the suit property on the basis of an agreement to sell in his favour executed by Harvel Singh (the previous owner of the suit property) on 03.12.2010. It is further the contention that the defendant-appellant had been in possession of the suit property since 2010 and that the defendant-appellant had also constructed house over the said property.

7. *Per contra*, learned counsel for the plaintiff-respondent (caveator) would contend that both the Courts concerned have concurrently found that Harvel Singh, who was alleged to have executed agreement to sell dated 03.12.2010, was not the owner of the suit property and hence he had no right to execute the agreement to sell. It is further the contention that as per the judgment and decree dated 15.04.1994 the plaintiff-respondent had been declared as owner of the suit property.

8. Heard.

9. In the present case though the case set up by the defendant-appellant was that he had purchased the suit property from one Harvel Singh vide agreement to sell dated 03.12.2010, however, there is not an iota of evidence on the record to prove that the said Harvel Singh had any right, title or interest in the suit property. It is trite that an agreement to sell by itself does not confer any right on the party. Learned counsel for the defendant-appellant has not been able to point out any evidence on the record that Harvel Singh had any right, title or interest in the suit property or had the capacity to transfer the same.

10. In view of the above, no fault can be found with the judgments and decrees passed by both the Courts concerned. No question of law, much less any substantial question of law, arises in the present case which requires determination by this Court. The appeal, being devoid of any merit, is accordingly dismissed. Pending applications, if any, also stand disposed off.

15.01.2025

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*