



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

114

RSA-1346-2021 (O&M)
Date of Decision: 03.09.2025

Vikash @ Vikas and another

...Appellants

V/s

Mahender and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. B.K. Bagri, Advocate, for the appellants.

VIKRAM AGGARWAL, J (ORAL)

This is plaintiffs' appeal against the judgment and decree dated 01.02.2020 passed by the Court of District Judge, Jhajjar, dismissing the appeal filed by them against the judgment and decree dated 17.07.2019 passed by the Court of Civil Judge (Jr. Divn.), Jhajjar, vide which the suit of the plaintiffs for declaration and permanent injunction was dismissed.

2. For the sake of convenience and clarity, parties shall be referred to as per their original status.

3. The plaintiffs (Vikash @ Vikas and Sunil) instituted a suit for declaration and permanent injunction. They claimed to be owners of land measuring 1 kanal 10 marlas (fully described in the plaint) situated within the revenue estate of Village Khanpur, Tehsil Matenhail, District Jhajjar (hereinafter referred to as the "suit land").

3.1 It was claimed that the suit land was inherited by them from their grandfather vide registered Will dated 05.05.1989 and Mutation No.2198 was also sanctioned. They claimed that they had never executed any sale deed in favour of any person but the defendants started claiming their right over the suit land on the basis of sale deed No.54 dated 04.05.1995 and consequent



Mutation No.3592 dated 24.11.2014. It was averred that the said sale deed had never been executed by the plaintiffs and the same was accordingly not binding on their rights.

3.2 The sale deed was stated to be the result of a fraud. They called upon defendants to admit their claim but they did not agree as a result of which the suit was filed.

4. The suit was opposed by the defendants. Defendants No.1 and 2 (Mahender and Ram Chander) filed their written statement raising preliminary objections regarding maintainability, limitation, *locus standi*, *estoppel* and suppression of material facts etc. On merits, it was claimed that the suit land was ancestral land and the grandfather of the parties namely Ami Lal was the owner in possession. He gave his land to the extent of 1/4th share to the plaintiffs and their father and 1/4th share to the defendants leaving Ami Lal with half share. Father of the plaintiffs namely Ram Kumar, who was owner of 1/8th share, sold his share to the defendants vide registered sale deed No.54 dated 04.05.1995, on the basis of which Mutation No.3592 was sanctioned on 24.11.2014. It was claimed that since then, they were owners in possession of the said land. It was also averred that the plaintiffs and proforma defendant No.3, in collusion, filed the suit.

4.1 Defendant No.3 appeared initially but did not file written statement as a result of which, defence of defendant No.3 was struck off.

5. From the pleadings of the parties, following issues were framed by the trial Court:-

“1. Whether the plaintiffs are entitled for decree for declaration to the effect that sale deed No.54 and mutation No.3592 dated 24.11.2014 is illegal, null and void and plaintiffs are owner in possession of the suit land mentioned in the plaint?OPP

2. Whether the suit of plaintiffs is not maintainable in the present suit?OPD



3. *Whether the plaintiffs have no locus standi to file the present suit?OPD*
4. *Whether the plaintiffs have not come to the Court with clean hands and suppressed the material facts from the Court?OPD*
5. *Whether the plaintiffs are estopped by their own act and conduct from filing the present suit?OPD*
6. *Whether the suit of plaintiffs is highly time barred?OPD*
7. *Whether the plaintiffs have filed the present suit only to harass the answering defendants and suit be dismissed with special cost under Section 35A CPC?OPD*
8. *Relief.”*

6. Parties led their respective evidence. The trial Court dismissed the suit and the appeal filed by the plaintiffs against that decision was also dismissed by the Court of District Judge, Jhajjar, leading to filing of the present regular second appeal.

7. I have heard learned counsel for the appellants.

8. Learned counsel for the appellants submits that both Courts have erred in non-suiting the plaintiffs. Reference has been made to the cross-examination of DW1 (Mahender), wherein he admitted that Ram Kumar was the owner of 1/4th share out of land measuring 2 kanals. Learned counsel submits that under the circumstances, out of the same, 1 kanal 10 marlas of land could not have been alienated as 1/4th share of 2 kanals does not come to 1 kanal 10 marlas.

8.1 Learned counsel has further submitted that after the sale deed having been executed in 1995 in favour of the defendants, as claimed by them, it is strange that mutation was effected in 2014. He submits that in fact it is only at this point of time that the plaintiffs came to know about the sale deed and, therefore, instituted the suit.

9. I have considered the submissions made by learned counsel for the appellants but find the same to be devoid of merit.

10. Sale deed dated 04.05.1995 is a registered document. There is a



presumption of correctness attached to it. Though, it was not required, the defendants examined its attesting witnesses i.e. DW2 (Shri Bhagwan) and DW3 (Chet Ram), who duly proved the execution of the sale deed (Ex.P2) by Ram Kumar in favour of the defendants. No evidence to rebut this evidence was produced.

10.1 In so far as the share of Ram Kumar is concerned, he was owner in possession of 1/4th share in land measuring 61 kanals 6 marlas, as has been noticed by the first Appellate Court. Learned counsel for the appellants has not been able to assail this finding by pointing out any evidence to the contrary.

10.2 The revenue records i.e. Jamabandis for the years 1991-92, 1996-97, 2001-02 and 2006-07 were produced on record showing that parties to the suit are joint owners in possession of the suit land and other properties. Merely, on account of this, it cannot be said that possession of a particular portion was not delivered to the defendants or that the sale deed (Ex.P2) would not be a valid document.

10.3 That being so, no error was committed by both Courts in non-suiting the plaintiffs. Both Courts have recorded concurrent findings of facts which are not liable to be interfered in second appeal.

11. In view of the above, the instant appeal is found to be devoid of merit and is accordingly dismissed.

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

(VIKRAM AGGARWAL)
JUDGE

September 03, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No