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

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**RSA-2755-2025 (O&M)
Date of decision :11.08.2025**

BALWANT SINGH**... APPELLANT****VERSUS****SMT. SARANJEET KAUR****...RESPONDENT****CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL**

Present: Mr. S.S. Momi, Advocate
for the appellant.

PARMOD GOYAL, J. (ORAL)**CM-9596-C-2025**

This is an application for condonation of delay of 32 days in refiling the present appeal.

For the reasons mentioned in the application, the same is allowed and the delay of 32 days in refiling the present appeal, is hereby condoned.

Main Case

Unsuccessful defendant-appellant has preferred second appeal before this Court being aggrieved by impugned judgment and decree dated 31.10.2023 passed by the Court of learned Civil Judge (Junior Division), Shahabad and judgment and decree dated 22.05.2025 passed by the Court of Additional District Judge, Kurukshetra, by which, suit of the plaintiff was decreed as well as upheld by Appellate Court and defence taken by defendant-appellant was rejected.

2. Brief facts giving rise to present lis are that the plaintiff claimed the suit property to be owned and possessed by him on the basis of sale-deed No.



2854 dated 19.03.2010. It was asserted that in previous suit, plaintiff was held entitled to possession of suit property and, therefore, plaintiff sought peaceful possession of suit property along with mesne profits.

3. Defendant on the other hand claimed that suit property bearing House No. 124, Gumti Road, Arup Nagar, Shahabad Markanda, District Kurukshetra was purchased by him from Bachan Singh son of Pala Ram in the year 2007 for a valuable consideration of ₹2,50,000/- and an agreement to sell to this effect was executed and since then defendant is residing in said house and he also asserted that he filed civil suit No.2565 of 2013 against plaintiff and her husband for permanent injunction which was partly decreed. It was asserted that in cross appeals, claim of present plaintiff seeking declaration to be owner of suit property was dismissed and, therefore, present suit is barred by res judicata.

4. Facts in the present case are not in dispute. Plaintiff-respondent, is claiming her right through sale-deed bearing No. 2854 dated 19.03.2010 executed in her favour by Pal Singh son of Sawan Singh. Defendant-appellant is claiming that suit property was sold to him under agreement to sell. It is not in dispute that in earlier suit preferred by appellant-defendant bearing No. 2565 of 2013 was decided by judgment and decree dated 21.08.2014 and 17.11.2017 by Appellate Court. Appellant was held entitled to hold possession and plaintiff was restrained from evicting the defendant (present appellant) from the suit property except in due course of law.

5. Admittedly, there is no declaration in favour of the defendant-appellant that he is the owner in possession of the suit property. The only argument raised on behalf of learned counsel for the appellant to assail judgment and decree of Courts below is that learned Courts below have wrongly concluded ownership of plaintiff on the basis of sale-deed which was tendered in original as Ex. P8 at



the time of rebuttal. It is argued that no evidence was led by defendant on any issue onus of which was upon defendant and, therefore, plaintiff could not have tendered original sale-deed in rebuttal evidence. However, I do not find any merit in the contention raised on behalf of the appellant.

6. Admittedly, certified copy of sale-deed was duly placed on record by the plaintiff at the time of his evidence in affirmative as Ex-P4 duly noticed by learned Appellate Court. It is also not in doubt that at the time of tendering original sale-deed as Ex. P8 in rebuttal evidence, no objection was taken by defendant-appellant. It is established principle of law that evidence/document which is not permissible to be led in evidence, can be challenged at any stage without any objection. However, objection regarding mode of proof of admissible evidence can be raised at the time of its tendering alone. Subsequent objection at the later stage or at second appellate stage cannot be taken into consideration. The objections being raised now ought to have been taken by the appellant at the stage when it was tendered. Subsequent objection, if any, is liable to be rejected. Moreover, in the present case, certified copy of sale-deed is already on record as Ex. P4. It is not the case of appellant that sale-deed dated 19.03.2010 is either forged or fabricated or executed by person, who was not entitled to execute the same.

7. In these circumstances, belated objection as regards to admission of the original sale-deed is without any basis. It is to be noted that in earlier suit preferred by the defendant-appellant, he was not held to be owner of the suit property. He was only held to be in possession and was liable to be the evicted in accordance with law by true owner. Plaintiff in the present case has shown that it is her who is the owner of property in view of the sale-deed dated 19.03.2010 and, therefore, she has rightly claimed possession, being true owner, from defendants,



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who had no right over the suit property.

8. The judgment titled as ‘Union of India and others Vs. Vasai Co-op. Housing Society Ltd. & Ors.’ 2014(1) Civil Court Cases 836 (S.C.), referred by learned counsel for the appellant is of no help to the case of the appellant. In the present case also, burden of proof has always been on plaintiff, which he has discharged by placing certified copy of sale-deed as Ex. P-4 as well as its original as Ex. P8. Therefore, the ratio of cited judgment is of no help to the case of the appellant-defendant.

9. Present appeal is accordingly dismissed.

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

11.08.2025
manoj

(PARMOD GOYAL)
JUDGE

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