



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

ESA-45-2015 (O&M)

Date of decision : 07.05.2025

Sunil Kumar

...Appellant

Vs.

Smt. Indra Wati

...Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Vijay Pal, Advocate
for the appellant.

Mr. Navmohit Singh, Advocate
for the respondent.

ANIL KSHETARPAL, J. (Oral)

I. Brief Facts:-

1. The decree-holder assails the correctness of concurrent orders passed by the Executing Court which in appeal has been affirmed by the First Appellate Court.

2. Mr. Sube Singh purchased the land measuring 161 Sq. yards in May, 1984. On 03.10.1994, he sold the land measuring 23 sq. yards in favour of Sh. Charan Singh, Sh. Ashok Kumar and Sh. Gaurav Kumar. On 11.04.1996, he sold the land measuring 25 sq. yards to Sh. Sant Lal. On 17.04.1997, he sold remaining plot measuring 114 sq. yards in favour of respondent-Smt. Indra Wati, who installed a sawmill and started working there. She also purchased the land measuring 23 sq. yards from Sh. Charan Singh, Sh. Ashok Kumar and Sh. Gaurav Kumar vide sale deed dated



11/12.09.1997. The appellant-Sh. Sunil Kumar claimed that Sh. Sube Singh has agreed to sell 161 sq. yards on 13.06.1996 and filed a suit for specific performance of the agreement to sell on 02.08.1997, which was decreed on 28.07.2003. When Sh. Sunil Kumar filed the execution petition, the respondent-Smt. Indra Wati filed objections, which have been allowed by both the Courts below. It has come on record that Sh. Sube Singh was not the owner of the land measuring 161 sq. yards on 13.06.1996 because he had sold the land measuring 23 sq. yards on 03.10.1994 and 25 sq. yards on 11.04.1996. Thus, both the Courts came to conclusion that the decree has been obtained by the appellant in collusion with Sh. Sube Singh.

II. Arguments:-

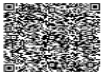
3. Heard the learned counsel representing the parties at length and with their able assistance perused the paper-book.

4. Learned counsel representing the appellant submits that the land measuring 48 sq. yards (23+25) may be excluded while allowing the appellant to take possession of the remaining land measuring 114 sq. yards. It is contended that the sale deed in favour of respondent-Smt. Indra Wati is after 13.06.1996. He submits that the suit filed by the appellant was contested by Sh. Sube Singh resulting in a decree, hence, there is no collusion between Sh. Sube Singh and Sh. Sunil Kumar.

III. Analysis and Discussion:-

5. This Court has considered the submissions made by the learned counsel representing the parties.

6. The cases are required to be decided on pre-ponderance on



evidence. Admittedly, on 13.06.1996, Sh. Sube Singh was not the owner of the land measuring 161 sq. yards as claimed by the appellant. Thus, the Courts have not committed any error in observing that the decree against the respondent could not be implemented. It is also evident that Smt. Indra Wati had established a sawmill after getting electric connection. However, she was never impleaded as a party to the suit. Hence, the decree passed on 28.07.2003 shall not be binding on her.

IV Decision:-

- 7. Keeping in view the aforesaid facts, no ground to interfere is made out.
- 8. Hence, the appeal is dismissed.
- 9. All the pending miscellaneous applications, if any, are also disposed of.

07.05.2025
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No