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

RSA-2920-2025
Date of Decision: 26.08.2025

PAWAN KUMAR AND ORS. .... Appellants

Versus

MADHU GARG AND ANR. .....Respondents

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. Amar Vivek Aggarwal, Advocate
for the appellants.

Parmod Goyal, J. (Oral)

CM-10303-C-2025

The present application has been filed for condonation of delay beyond mandatory prescribed period of 40 days in re-filing of the present appeal.

In view of the averments made in the application, the same is allowed and the appeal is taken up today itself.

Application stands disposed of.

Main Case

Appellants who are aggrieved by the impugned judgments and decrees dated 24.09.2014 and 01.10.2024, passed by the Courts of learned Additional Civil Judge (Senior Division), Narwana and learned Additional District Judge, Jind respectively, vide which suit for possession by way of specific performance preferred by plaintiffs-appellants was dismissed. After the judgment and decree dated 24.09.2014, the present plaintiffs-appellants had preferred an appeal which was allowed vide judgment and decree dated 08.08.2018 (Annexure A-2), allowing the suit preferred by the plaintiffs-appellants. Against the said judgment and decree dated 08.08.2018, passed by the Court of learned Additional District Judge, Jind, defendants-respondents approached the Hon’ble High Court by way of RSA No. 13 of 2019 and vide order dated 04.03.2020, the Hon’ble High Court accepted the appeal setting aside the order dated 08.08.2018. Matter was remanded back to First Appellate Court for considering respective contentions of parties and decide afresh. The appellate Court after considering respective contentions on remand from Hon’ble High Court vide impugned judgment and decree dated 01.10.2024 dismissed the appeal preferred by plaintiffs-appellants.

2. Plaintiffs-appellants had filed a suit for specific performance seeking specific performance of agreement dated 02.11.2009 and 01.02.2010 executed by defendant No.1 for sale of house measuring 100 square yards situated within the abadi of Birbal Nagar, Narwana. As per plaintiffs-appellants it was agreed to purchase the suit property for a total consideration of Rs.15,00,000/-, out of which Rs.6,00,000/- was paid as earnest money and last date for executing sale deed was fixed as 30.01.2010.

3. Plaintiffs further claimed that after execution of agreement to sell dated 02.11.2009, it came to their notice that defendant No.1 has mortgaged the suit property and accordingly they issued a notice dated 16.12.2009 calling upon defendant No.1 to clear mortgage and execute the sale deed thereafter. Notice was duly replied by defendant No.1 vide reply dated 08.01.2010 denying execution of agreement to sell and it was claimed to be forged. Plaintiff claim’s that thereafter they again entered into fresh agreement dated 01.02.2010 and it was agreed that sale deed shall be executed on 30.07.2010, however, none appeared before sub - registrar.

Plaintiffs got their presence marked with the Sub-Registrar, Narwana and on the basis of above, plaintiffs had preferred a suit for specific performance seeking direction to the defendants to execute the sale deed in their favour.

4. The suit was duly contested by respondent/defendant No.1 specifically denying execution of agreement to sell dated 02.11.2009 and 01.02.2010. Defendant No.1 had also denied the receipt of earnest money. It was claimed that neither any agreement to sell was executed nor any earnest amount of Rs.6,00,000/- was received. It was asserted that plaintiff No.1 was running an Inverter Shop and husband of defendant No.1 used to purchase goods from plaintiff No.1. Plaintiff No.1 used to obtain signatures of defendant No.1 and her husband on blank papers and by misusing the signatures, plaintiffs had prepared agreement to sell dated 02.11.2009 and 01.02.2010 by playing fraud upon defendant No.1. It was claimed that both the agreements are forged documents. It was further claimed by defendant No.1 that due reply to notice dated 16.12.2019 was given whereby it was specifically asserted that agreement dated 02.11.2009 is forged and plaintiffs are indulging in blackmailing husband of defendant No.1.

5. Admittedly, in the present case during the pendency of the suit, the suit property was sold in favour of defendant No.2, who was also impleaded as one of the parties. He claimed himself to be *bona fide* purchaser for valuable consideration.

6. Following issues were framed by the learned Court of First Instance :-

> *1. Whether the plaintiffs are entitled to possession by way of specific performance of agreement dated 2.11.2009? OPP.*

> 2. *Whether plaintiffs have no locus standi to file the present suit? OPP.*
>
> 3. *Whether the suit is not maintainable in the present form? OPD.*
>
> 4. *Whether plaintiffs have suppressed material and true facts? OPD.*
>
> 4(a). *Whether defendant No.2 is a bona fide purchaser of the suit property for valuable sale consideration and without notice to agreement to sell, if so what effect? OPD*
>
> 5. *Relief*

7. Both the Courts have given concurrent finding and all the issues were decided against the plaintiffs and suit as well as appeal were dismissed.

8. Learned counsel for appellants has argued that both the Courts have erred in not considering admission of respondent No.1 regarding her signatures as well as signature of her husband on both the agreements. It is asserted that both the parties are rustic and have no legal background, therefore, have executed the documents in a casual manner without having any knowledge of law. Therefore, circumstances arising from such execution of agreements has been wrongly interpreted by the Courts below to conclude fraud as prayed by defendant No.1. Learned counsel has also made reference to the evidence of defendant No.1 and her husband. It is argued that defendant No.1 has claimed that her signatures were taken on blank papers without there being any stamp over them, whereas husband of defendant No.1 claimed that papers were blank stamp papers. It is asserted that the discrepancies in the evidence of defendant No.1 & her husband goes to prove due execution of agreement, once defendant No.1 has admitted her signatures and that of her husband on both the agreements. It is asserted that

both the Courts have misread the evidence and have wrongly concluded that both the agreements are result of fraud as claimed by defendant No.1.

9. On consideration of evidence as well as impugned judgments rendered by both the Courts, I find no error in the concurrent findings of facts recorded. Both the Courts below have noticed the circumstances of present case and have concluded that from noted circumstances, both the sale agreements are suspicious and were not signed with intention to execute agreement to sell. I also find merit in the conclusions drawn by learned Courts below.

10. First agreement was entered allegedly by defendant No.1 on 02.11.2009. As last date for execution of sale deed was 30.01.2010, plaintiffs had issued a notice dated 16.12.2009 asking defendants to clear mortgage and execute the sale deed as per agreement dated 02.11.2009. Notice dated 16.12.2009 was duly replied by defendant No.1 through her counsel vide reply dated 08.01.2010. Perusal of reply dated 08.01.2010 which is admitted by plaintiff clearly shows that the defendant No.1 has clearly taken a stand that plaintiff is blackmailing defendant No.1 and her husband and had forged the agreement, therefore, at the first opportunity defendant No.1 had clearly denied the execution of agreement and has claimed fraud and forgery on the part of the plaintiffs. It is also worth noticing that both the parties admit that they were having business ties with each other since 2007. Furthermore, both the Courts below have duly noticed that the second agreement dated 01.02.2010 makes the case of plaintiffs totally unreliable.

11. Immediately after denial of agreement by defendant No.1 vide her reply dated 08.01.2010, another agreement has been shown to be

executed allegedly by defendant No.1 on 01.02.2010. A perusal of agreement dated 01.02.2010 (part of Annexure A3 of the paper book) goes to show that in the subsequent agreement, there is no mention of mortgage which plaintiff was well aware on 16.12.2009, when he had issued notice to defendant No.1. No mention of previous agreement dated 02.11.2009 has been made and in both the agreements the consideration amount has been shown to be Rs.15,00,000/-, but in second agreement it was not shown that Rs.6,00,000/- have been adjusted from previous agreement. All these facts if taken cumulatively, create a grave doubt over the case of plaintiffs and regarding execution of agreements dated 02.11.2009 and 01.02.2010 by defendant No.1.

12. It is correct that the onus to prove fraud is upon defendants, however, fraud can be proved either by leading express evidence or from facts placed before the Court. In the present case, defendant No.1 by showing circumstances leading to execution of second agreement dated 01.02.2010 has clearly proved that both the agreements are result of fraud, as being claimed by defendant No.1. Plaintiffs have not proved any material on record to justify payment of Rs.6,00,000/-. Plaintiff while appearing as his own witness admitted that he has not shown Rs.6,00,000/- under both the agreements as earnest money in any of his business documents or to income tax authorities. There is no evidence placed by plaintiff to show how he has paid the said amount and what was the source of getting Rs.6,00,000/- which was paid to defendant No.1. Courts below have rightly rejected both the agreements.

13. Finding of both the Courts are upon pure question of facts,

which are based upon evidence recorded before the Courts. No substantial question of law arises.

14. Appeal is without merit and is dismissed accordingly.

(PARMOD GOYAL)
26.08.2025 **JUDGE**
chiranjeev

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No