



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

**Reserved on 7th of August, 2025
Pronounced on 4th of November, 2025**

RSA No.1070 of 2014 (O&M)

Ajmer Singh and another

.....Appellants

Versus

Avtar Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sapan Dhir, Advocate and
Ms. Raj Kaur, Advocate for the appellants.

Mr. Sunny K. Singla, Advocate for respondent No.1.

PANKAJ JAIN, J.

Defendants are in second appeal. For convenience, the parties hereinafter are referred to by their original position before the Court of First Instance i.e. the appellants as defendants and the respondent as plaintiff.

2. Plaintiff filed suit for possession by way of specific performance claiming that defendants agreed to sell the suit land in his favour vide agreement to sell dated 15.11.2005 @ Rs.1,04,000/- per *Bigha*. Rs.20,00,000/- was received as earnest money on the same date. The parties agreed to get the sale deed executed on or before 15.03.2006. Plaintiff claimed that he always remained ready and willing to perform his part and continues to do so, but the defendants having failed to perform their part, decree of possession by way of specific performance be granted in his favour.



3. Defendant No.1 died. He is being represented by his LR's i.e. defendants No.2 to 4. Defendant No.4 was proceeded *ex parte*. Written statement was filed on behalf of defendants No.2 and 3. Execution of agreement to sell, was denied. As per defendants No.2 and 3, agreement to sell dated 15.11.2005 was a forged, fictitious and fabricated document. It was claimed that Jangir Singh, defendant No.1 is owner in possession of 3/4th share out of the disputed land. Defendants No.2 and 3 and one Gurmail Singh sons of Jangir Singh were owners to the extent of 1/4th share. Gurmail Singh died bequeathing his property in favour of defendants No.2 and 3. Thus, defendants No.2 and 3 are now the owners of 1/4th share of the disputed land to the extent of 1/2 each. It was claimed that Jangir Singh was 90 years of age and was person of unsound mind. He was not in position to comprehend good or bad. The agreement to sell was neither thumb-marked by Jangir Singh nor was signed by any of the defendants. The suit filed by the plaintiff thus be dismissed.

4. The Court of the First Instance framed the following Issues:

- “1. Whether defendants executed an agreement to sell dated 15.11.2005 in favour of plaintiff and received a sum of Rs.20 lacs as earnest money? OPP
2. Whether the agreement to sell dated 15.11.2005 is result of fraud, misrepresentation and is without consideration? OPD
3. Whether the plaintiff remained ready and willing and is still ready and willing to perform his part of the contract? OPP
4. Whether the suit is not maintainable in the present form? OPD
5. Whether the plaintiff is entitled to the decree of specific performance as prayed for? OPP.
6. Whether the plaintiff is entitled to the alternative relief of



recovery of Rs.40 lacs, as prayed for ? OPP

7. Relief.”

5. While answering Issues No.1, 2, 3, 5 and 6, the Court of the First Instance found that the plaintiff proved execution of agreement to sell in his favour by defendants No.1 to 3 by examining Anish Garg, Stamp Vendor as PW-3, Jasmer Singh attesting witness of agreement to sell as PW-1 and also proved payment of earnest money of Rs.20,00,000/-. The Trial Court further found that since 15.03.2006 i.e., the agreed date was declared as a public holiday, plaintiff vide Exhibit P-2 successfully proved his presence before Sub Registrar, Ahmedgarh on 16.03.2006 and thus was successful in proving his readiness and willingness.

6. Defendants in their defence although denied execution of agreement to sell and claimed that the same was result of fraud but failed to lead any evidence. Apart from denial, the evidence for consideration brought on record by the defendants was by examining DW4 Dr. Jagjiwan Singh, District Health Officer, Mansa, who claimed that he treated Jangir Singh, son of Nikka Singh, defendant No.1 for Anxiety Neurosis and Schizophrenia. The Trial Court after considering the evidence however found that the oral testimony of Dr. Jagjiwan Singh was not in sync with documentary evidence, Exhibits D-1 and D-2. Holding that the defendants have failed to prove their defence, Trial Court decreed the suit filed by the plaintiff granting decree of possession by way of specific performance.

7. In appeal preferred by defendants, the findings recorded by the Court of the First Instance stand affirmed and the appeal filed by



defendants/vendors, stands dismissed.

8. Counsel for the appellants has assailed the findings recorded by the Courts below. Reliance is being placed upon Exhibit P-5 i.e., *Jamabandi* for the year 2001-2002. As per which, stay was granted by Civil Judge, Sangrur upon alienation of 1/4th share of Ajmer Singh and entry regarding mortgage of 3/4 share of Jangir Singh with State Bank of Patiala. Mr. Dhir submits that because of the injunction order as well as the mortgage, neither Jangir Singh nor Ajmer Singh were competent to sell their share in the property. Counsel for the appellants further submits that the onus to prove execution of agreement to sell was upon the plaintiff, who propounded the same. It was for the plaintiff to prove that on the date of execution of agreement to sell, Jangir Singh was in control of his mental as well as physical faculties and had validly executed the agreement to sell in his favour. He submits that agreement to sell is surrounded by suspicious circumstances. It is witnessed by Sukhwinder Singh resident of village Alipur Khalsa and Jagmail Singh resident of village Badla. These villages are situated in District Fatehgarh Sahib. The stamp-papers were purchased from Sherpur. Agreement to sell was alleged to have been scribed at Malerkotla Court Complex whereas the suit property is neither situated in District Fatehgarh Sahib nor within Tehsil Sherpur or Malerkotla. The same is situated in village Mithewal, Tehsil Ahmedgarh, District Sangrur. He submits that it was incumbent upon the plaintiff to prove that the agreement to sell bears thumb-impressions of the defendants. No evidence was led by the plaintiff to prove the same despite the fact that the defendants



explicitly denied execution of agreement to sell. He submits that testimony of Dr. Jagjiwan Singh, DW-4 has been completely misread by the Courts below. Balbir Kaur daughter of Nikka Singh is not party to the agreement to sell, yet Courts below have decreed the suit for specific performance against her. In order to hammer-forth his contentions, he relies upon ratio of law laid down in the case of **Rangammal vs. Kuppuswami and another, (2011) 12 SCC 220, Mohinder Singh vs. Balbir Singh and others, 2011(2) PLR 390, Thiruvengada Pillai vs. Navaneethammal and another, 2008(2) R.C.R.(Civil) 262, Shiv Charan vs. Siri Ram and another, 2008(3) R.C.R.(Civil) 454, Harvel Singh vs. Ranjit Singh and another, 2012(4) PLR 171, Balwinder Kaur vs. Bawa Singh and others, 2002(3) R.C.R.(Civil) 217, S. Thirugnanasambandam vs. P. Kaliyaperumal and others, 2013(3) CTC 577, Saradammal alias Saradambal vs. G.S. Srinath, 2012(6) MLJ 1, Sanjay Gupta vs. Ram Prasad, 2012(4) AD (Delhi) 727, Suresh Kumar Lal v. Smt. Lalti Devi, 2011 AIR (Patna) 118, Kadirvelu Pillai vs. V. Arjunan, 2013(6) R.C.R. (Civil) 2060, Vivek Jha vs. Bharat Suman, 2013(3) M.P.L.J 668, M.K. Watts vs. Smt. Usha Sharma, 2003(4) R.C.R.(Civil) 233, M/s. P.B. Deb and Associates vs. Sunanda Roy, 1996 AIR (SC) 1504, B. Rajamani vs. Mrs. Azhar Sultana and others, 2005 AIR (A.P.) 260, P. Purushotham Reddy and another vs. M/s Pratap Steel Ltd., 2003(2) CivCC 339, Spring Valley Finance and Trade Ltd vs. Prakash Kaur (deceased) Now represented by her LRs and Smt. Darshan Kaur, 2008(148) DLT 767, S.K. Mittal vs. Kalinga Estate (P) Ltd. And others, 2010(8) RCR(Civil)**



3244, Naranji Makanji vs. Bhagwanji Makanji Patel and another, 1994(3) LJR 431, A.K. Laksmipathy (Dead) vs. Rai Saheb Pannalal H. Lahoti Charitable Trust, 2010(1) R.C.R (Civi) 922, Narinder Kumar Malik vs. Surinder Kumar Malik, 2009(4) R.C.R.(Civil) 181, Penumatsa vs. Valluri Jaya Prakasa Babu, 2007(5) R.C.R.(Civil) 494 and G. Jayashree and others vs. Bhagwamdas S. Patel and others, (2009) 3 SCC 141.

9. Per contra, counsel for the respondent/plaintiff submits that a pure finding of fact has been recorded by the Court of the First Instance which stands affirmed by the Lower Appellate Court. Both the Courts below have analyzed the evidence threadbare and have rightly come to the conclusion that the plaintiff successfully proved execution of agreement to sell in his favour. He submits that the agreement to sell stands proved in terms of Section 68 of the Indian Evidence Act, 1872. Defendants pleaded fraud. No particulars were pleaded in the written statement. No evidence was led to prove the fraud claimed or the fabrication alleged. Once defendants failed to lead any cogent evidence to prove fraud or fabrication, the Courts below have rightly decreed the suit filed by the plaintiff.

10. I have heard counsel for the parties and have carefully gone through records of the case.

11. In a suit for specific performance, the plaintiff is obligated under law to prove valid execution of agreement to sell. The plaintiff examined Stamp vendor PW3 and Jasmer Singh attesting witness. Valid execution of agreement to sell stands proved in terms of Section 68 of the



Indian Evidence Act. Defendant pleaded that the agreement to sell was result of fraud. No details of fraud have been pleaded. The only evidence adduced is testimony of DW4 Dr. Jagjiwan Singh to prove that Jangir Singh one of the vendors suffered from mental illness. Statement of Dr. Jagjiwan Singh DW4 runs counter to the documentary evidence Ex.D1 and Ex.D2. The same has been accordingly discarded by the Courts below. Apart from bare oral denial, defendants failed to lead any evidence to rebut the evidence brought on record by the plaintiff to prove execution of the agreement to sell.

12. Trite it is that not only the details of the fraud need to be pleaded, but the same also needs to be proved in accordance with law. The written statement is devoid of any particulars of fraud. Evidence led by the defendant is discrepant.

13. Plaintiff further proved his presence before Sub-Registrar on 16.03.2006, as the agreed date to get the sale deed executed i.e. 15.03.2006 was declared public holiday. Thus, willingness of plaintiff is not in dispute. No plea has been raised qua his readiness.

14. Mr. Dhir lastly argued that source of earnest money of Rs.20,00,000/- could not be proved by the plaintiff. The argument *sans* merit and cannot be accepted. A bare perusal of cross-examination of plaintiff Avtar Singh reveals that on being asked about the source of earnest money, he specifically claimed that he had sold his land. No further issue was raised by the defendants. Plaintiff was never asked to produce copy of the sale deed.



15. In view thereof, this Court finds no valid reason to dislodge the pure findings of fact recorded by the Courts below after appreciating evidence on record.

16. Finding no merit in the present appeal, the same is ordered to be dismissed.

17. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

4th of November, 2025

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No