

**IN THE HIGH Court OF PUNJAB AND HARYANA AT CHANDIGARH****115****RSA-2596-2022 (O&M)****Date of decision: 06.03.2025****Bishan Singh****...Appellant(s)****Vs.****Sadhu Singh (now deceased) through his LRs****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Kamla Malik, Legal Aid Counsel for the appellant.

*********NIDHI GUPTA, J.**

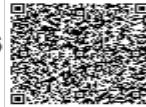
The plaintiff is in second appeal against the concurrent judgments and decrees of the learned Courts below, whereby the suit of the plaintiff seeking declaration that the plaintiff is owner of Mini Bus No. PB-07P-7477 on the basis of Affidavit of Sale dated 21.04.2012 executed by defendant in favour of the plaintiff; and suit for mandatory injunction directing the defendant to hand over the possession of the said Bus; and suit for permanent injunction restraining the defendant from selling and plying it, has been dismissed by both the Courts below.

2. Learned Legal Aid counsel appearing for the appellant/plaintiff inter-alia, submits that the defendant had sold the above said mini bus to the plaintiff along with route permit on 06.01.2012 for an amount of Rs.8 lacs. It is submitted that on 06.01.2012 itself, the plaintiff had paid Rs.4 lacs to the defendant, upon which the defendant



had executed Power of Attorney in favour of the plaintiff for plying the above said bus on the route. It is contended that as such, since 06.01.2012 the plaintiff is in possession of the suit bus along with route permit. The plaintiff had made payment of the balance sale consideration of Rs.4 lacs to the defendant on 21.04.2012, upon which Affidavit of Sale (Ex.P2) was also executed in favour of the plaintiff. The Affidavit (Ex.P2) shows that the defendant/respondent had sold the mini bus to the plaintiff and had received the entire sale consideration. Further it is mentioned in the Affidavit that after the sale of the vehicle, the appellant/plaintiff namely Bishan Singh would be responsible for all intents and purposes. It is submitted that the plaintiff had led cogent comprehensive evidence in the form of Ex.P4 and Ex.P5, which are the registers maintained by the appellant, through which the appellant's possession of the mini bus is proved on record. The plaintiff had even produced the photographs of the bus Ex.P6 and Ex.P7 to show that bus was plying under the name of "Khalsa Bus Services". Thus, on the basis of oral and documentary evidence, it is proved that the mini bus in dispute was purchased by the appellant/plaintiff. However, the respondent in connivance with the police had taken possession of the above said mini bus forcefully and wrongfully. These facts have not been considered by the learned Courts below while passing the impugned judgments and decrees.

3. No other argument is raised on behalf of the appellant/plaintiff.

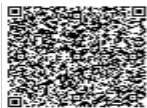


4. I have heard learned counsel for the appellant/plaintiff and perused the case file in great detail.

5. I find no merit in the arguments advanced on behalf of the appellant/plaintiff. The plaintiff has relied upon the Power of Attorney (Ex.P1). Perusal thereof shows that (Ex.P1) does not mention any Agreement for sale of the bus in question; or transfer of Rs.4 lacs from the plaintiff in favour of the defendant. The Power of Attorney even does not authorise the plaintiff to ply the bus. It does not mention anything about the sale and receipt of half sale consideration by defendant, rather shows that the plaintiff has no right to get the bus or route permit transferred.

6. Even alleged Affidavit of Sale (Ex.P2) also relied upon by the plaintiff states that plaintiff has not made any such purchase of bus from the defendant. As such, it does not support the case of the plaintiff in any manner. Moreover, the plaintiff has examined only one witness i.e. PW2 Stamp Vendor, who did not make any statement except stating that he had sold the stamp paper in question. No witness was produced by the plaintiff to establish that plaintiff had paid Rs.8 lacs to the defendant. Even no financial record was produced by the plaintiff to show that any such amount was transferred by the plaintiff in favour of the defendant; or even any bank account statements which could reveal that the plaintiff had withdrawn Rs.4 lacs on two occasions.

7. On the contrary, the defendant produced DW1 Sukhwinder Kaur who placed on record the copy of legal notice dated 17.12.2012 (Ex.D5), as per which the alleged Power of Attorney (Ex.P1) executed in



favour of the plaintiff, stood cancelled. It has further been found by learned Courts below that till date, registration certificate of the minibus in question stood first in the name of the defendant, and after his demise in the name of his LRs. The defendant also produced Affidavit dated 21.04.2012 (Ex.D2) of the plaintiff himself, where he had conceded that he had not purchased the mini bus in question. The plaintiff has also not disputed his signatures on this Affidavit.

- 8. Learned counsel for the appellant/plaintiff is unable to dispute or controvert the above said facts and findings.
- 9. Accordingly, the present regular second appeal is **dismissed**.
- 10. Pending applications, if any, stand disposed of.

06.03.2025
Divyanshi

(NIDHI GUPTA)
JUDGE

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