

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****134****RSA-3720-2025 (O&M)****Date of decision: 11.11.2025****Balvir Kaur****...Appellant(s)****Vs.****Harjinder Singh and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Harshmir Kaur Swaitch, Advocate for the appellant.

NIDHI GUPTA, J.**CM-13609-C-2025**

Prayer in this application filed under Section 151 CPC is for condonation of delay of 32 days in refiling the accompanying appeal.

2. Heard.

3. For the reasons mentioned in the application which is duly supported by an affidavit of learned counsel for the applicant/appellant, the same is allowed and delay of 32 days in refiling the appeal is condoned.

RSA-3720-2025 (O&M)

Present Second Appeal has been filed by the plaintiff against the concurrent judgments and decrees of the learned Courts below, whereby suit filed by the appellant for specific performance of Agreement to Sell dated 20.01.2010; **OR** suit for recovery of total sale consideration



of Rs.8,50,000/- along with interest @ 12% p.a.; **and** suit for permanent injunction, has been dismissed by both the Courts below.

2. It is *inter alia* submitted by learned counsel for the appellant that defendant No.1 had agreed to sell the house in question to the plaintiff for a total sale consideration of Rs.8,50,000/- in respect of which Agreement to Sell dated 20.01.2010 has been executed. Admittedly, the entire sale consideration was paid by the plaintiff. However, defendant No.1 had refused to execute the Sale Deed in favour of the plaintiff. Moreover, Id. Courts below have wrongly discarded the evidence produced by the appellant to prove beyond doubt that the Agreement to Sell is a valid one. Hence, present suit was instituted on 22.01.2011.

3. Learned counsel for the appellant further submits that the case of the respondents/defendants that defendant No.1 had returned the sale amount of Rs.8,50,000/- to the plaintiff vide Receipt dated 10.09.2010 in cash, is not believable and is clouded under suspicious circumstances as the said Receipt is not signed by defendant No.1. The said Receipt is only signed by interested witnesses Harjinder Singh and Amarjit Singh, who are both related to defendant No.1. As such, defendants have been unable to prove that the sale amount of Rs.8,50,000/- was returned to the plaintiff.

4. It is further contended that even the alleged thumb impression of the plaintiff upon the Receipt dated 10.9.2010 has been misconstrued by the learned Courts below. It was the clear case of the plaintiff that defendant No.1 had taken signatures of the plaintiff on blank



papers by stating that it is required for Numberdar. In her replication, plaintiff had categorically denied her thumb impression upon the Receipt Ex.D1. As such, appellant could not have been non-suited on the basis of Receipt Ex.D1. Learned Courts below have ignored the specific plea taken by the appellant that Receipt Ex.D1 is shown to be prepared under suspicious circumstances which the defendant No1. has been unable to prove beyond doubt. Accordingly, suit of the plaintiff could not have been dismissed.

5. It is accordingly prayed that the present Appeal be allowed; and the impugned judgments and decrees of the Courts below be set aside.

6. No other argument is raised on behalf of the appellant. I have heard learned counsel and perused the case file in great detail. I find no merit in the submissions advanced on behalf of the appellant.

7. The admitted factual position is that the Agreement to Sell dated 20.01.2010 Ex.P1 has been duly proved on record. It is also admitted that Rs.1 lac was paid by the plaintiff by way of earnest money on 20.01.2010 itself at the time of execution of Agreement to Sell. Thereafter, vide Endorsement dated 11.06.2010 Ex.P2, a further sum of Rs.1 lac was paid to defendant No.1; and vide endorsement dated 23.01.2010 Ex.P3, the remaining amount of sale consideration of Rs.6,50,000/- was paid to defendant No.1. Defendants No.1 and 2 in their written statements have admitted the above documents and had



admitted the receipt of Rs.8,50,000/- from the plaintiff. Ownership of defendant No.1 over the suit property is also admitted.

8. Thus, the only dispute in the entire case is that as per defendants No.1 and 2 they had already returned the amount of Rs.8,50,000/- to the plaintiff on 10.09.2010 as proved from the original Receipt dated 10.09.2010 Ex.D1 produced by the defendants. To prove the said Receipt, defendants had examined DW2 Harjinder Singh and DW3 Amarjit Singh, who are the attesting witnesses to the said Receipt. Both the said witnesses have categorically deposed that the Receipt dated 10.09.2010 was executed by the plaintiff after receipt of amount of Rs.8,50,000/-. Arguments of the plaintiff that the said Receipt Ex.D1 is surrounded in suspicious circumstances, as the same is not signed by defendant No.1; and because the attesting witnesses are interested witnesses; are liable to be rejected in view of the fact that Receipt dated 10.09.2010 Ex.D1 bears the thumb impression of the plaintiff. Moreover, DW1 Navdeep Gupta, Handwriting and Fingerprint Expert, Patiala had tendered into evidence his report and digital photographic enlargements as Ex.D2 to Ex.D6 with the opinion that thumb impression on Receipt dated 10.09.2010 is that of the plaintiff.

9. It is important to note that plaintiff led no evidence in rebuttal to prove that thumb impression on the Receipt, was not her own. Rather, plaintiff in her evidence in rebuttal has admitted that her thumb impression was taken by the defendant No.1 under the pretext that he was to take numberdari of her mother. On repeated Court queries,



learned counsel for the appellant has admitted that plaintiff did not examine any witness in rebuttal to disprove the authenticity of Receipt or her thumb impression thereupon. Plaintiff has further admitted in her cross-examination that she did not remember as to when the defendant had obtained her thumb impression on the pretext of Numberdari of her mother. She did not remember the date, month or the year on which her thumb impression was fraudulently obtained by Harjinder Singh. Plaintiff could not inform as to who was present at the time when her thumb impression was allegedly taken by defendant No.1. No reasons have been given by learned counsel for the plaintiff as to why plaintiff did not lead any evidence in rebuttal to counter the report of the Handwriting Expert DW1 produced by the defendants. The Courts below have therefore, rightly concluded that the plaintiff came up with the improved version that her thumb impression was taken by defendant No.1 under the pretext of Numberdari of her mother. Thus, Agreement to Sell was proved to have been cancelled by the plaintiff as she had received back the sale consideration amount of Rs.8,50,000/-.

10. During the course of arguments, learned counsel for the appellant has stated that the plaintiff in her replication had denied her signature/thumb impression upon Receipt Ex.D1. However, it is recorded in impugned judgments that during her cross-examination, plaintiff has stated that she did not file any replication to the written statement filed by defendant No.1.



11. Learned counsel for the plaintiff is also unable to reconcile the contradictions and discrepancies in the various stands taken by the plaintiff from time to time in respect of the Receipt; as also the thumb impression of the plaintiff on the Receipt Ex.D1.

12. Even otherwise, present Second appeal is liable to be dismissed on the short ground that this Court in Regular Second Appeal has limited jurisdiction to interfere in the concurrent findings of facts returned by the learned Courts below. The Hon'ble Supreme Court in ***M/s. Shivali Enterprises v. Godawari (Deceased) (SC): Law Finder Doc Id # 2034559*** has held that no matter howsoever incorrect or grossly erroneous the concurrent findings of the learned courts below may be, this Court in the Second Appeal can interfere in the concurrent findings only where there is an error in law or procedure. In the present case, no such error in law and procedure has been made out by learned counsel for the appellants.

13. In view of the above, I find no ground is made out to interfere in the impugned concurrent judgments and decrees of the learned Courts below. The present Regular Second Appeal is hereby **dismissed**.

14. Pending applications, if any, stand disposed of.

11.11.2025

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No