

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA-2295-2017 (O&M)
Reserved on: 27.02.2025
Date of decision: 10.03.2025

BALBIR KAUR (DECEASED) THROUGH LR PARAMJIT
..Appellant
Versus
AMARJIT SINGH AND ANOTHER
..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.N. Lohan, Advocate
for the appellant.

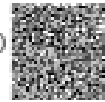
Mr. M.L. Saggar, Sr. Advocate
with Ms. Armaan Saggar, Advocate
Mr. Sunny Saggar, Advocate
Mr. Omesh Garg, Advocate
for respondents.

ANIL KSHETARPAL, J.

1. Brief Facts:-

1.1 The plaintiff assails the correctness of the concurrent findings of fact arrived at by the Courts below while decreeing plaintiffs suit for possession by way of specific performance of agreement to sell with consequential relief of permanent injunction.

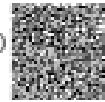
1.2 Two plaintiffs are brothers of defendant late Smt. Balbir Kaur. Their grand-father Sh. Sampuran Singh transferred his entire land in favour of his son as well as grand-children including Smt. Balbir Kaur. She became owner of 1/9th share out of land measuring 1178 kanal and 14 marlas. Defendant was married to Sh. Surender Singh, resident of village Dasaunda Singhwala, Malerkotla, but after the death of Sh. Surender Singh, she started



residing in her parental village. She borrowed some amount from Punjab National Bank and on account of default, the Court attached her property in the year 1989, which was released only on 25.03.2004. Sh. Amarjit Singh, plaintiff No.1 was a guarantor.

1.3 It is the case of the plaintiffs that Smt. Balbir Kaur, their sister agreed to sell her 1/9th share vide agreement to sell dated 13.09.1993 on receipt of entire sale consideration i.e. Rs.8,19,428/-. It was stipulated in the agreement to sell that the sale deed would be executed six months from the date, the loan is repaid by the defendant to Punjab National Bank. The loan was repaid in the year 2003-2004. After having served notice on 01.10.2003, calling upon defendant to come and execute the sale deed on 23.10.2003, they visited the office of Registrar on 23.10.2003 but defendant did not turn up, whereas, the plaintiffs were always ready and willing to perform their part of the contract. The suit was filed on 04.11.2003. Defendant denied execution of the agreement to sell while claiming that fraud was played upon her. She did not know the witnesses of the agreement to sell and the scribe. It was claimed that the agreement was a result of fraud and undue influence because she used to take advice of plaintiff No.1 Sh. Amarjit Singh in litigation concerning loan taken from the bank. During the period 1999 to 2003, Rs.15,53,002/- was repaid to the bank and Sh. Amarjit Singh used to take her signatures on various blank papers while promising to get her share released. Signatures on blank paper were also taken for engaging counsel and for becoming the special power of attorney.

1.4 Both the Courts have correctly decreed the suit as one witness and scribe of the agreement to sell have been examined. In order to prove her signatures, handwriting and fingerprint expert was also examined.



vakalatnama i.e. power of attorney, written statement and her standard signatures taken in the Court on a separate sheet of paper. She denied that the plaintiffs were her brothers. Thus, the Court found that defendant is not a reliable witness. Suit filed by the plaintiffs was decreed. The First Appellate Court dismissed the defendants appeal.

1.6 The cross-objections filed by the plaintiffs were also dismissed.

2. Arguments put forth by the learned counsel for the parties:-

2.1 This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

2.2 Learned counsel for the appellant has made the following submissions:-

i. Two handwriting and fingerprint experts have been examined by the defendant but their opinion has wrongly been ignored.

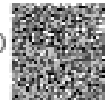
ii. In the agreement to sell, there is a title of entire payment i.e. Rs.8,19,428/- at the time of agreement to sell, however, the plaintiffs have failed to prove their source.

iii. It is recited in the agreement to sell that the possession was delivered to the plaintiffs, whereas, while filing the suit, the plaintiffs have sought possession.

2.3 Per contra, the respondents counsel has submitted that the plaintiffs have sought possession because in the revenue record, possession of Smt. Paramjit Kaur continues, although, factually the plaintiffs are in possession.

3. Analysis and Discussion:-

3.1 This Court has considered the submissions of learned counsel



for the parties.

3.2 In order to prove the agreement to sell, PW-1 Sh. Amarjit Singh (plaintiff), PW-2 Sh. Karamjit Singh, witness of the agreement to sell, PW-3 Sh. Satnam Singh Chahal, Advocate, District Court, Patiala, scribe of the agreement to sell and PW-6 Dr. Inderjit Singh, handwriting and fingerprint expert, have been examined apart from the other witnesses.

3.3 They have stated that Smt. Paramjit Kaur signed the agreement to sell. The plaintiffs also examined PW-7 Sh. R.P. Garg, Manager, Punjab National Bank to prove vouchers showing repayment of the loan.

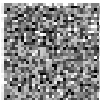
3.4 Though, the defendant has examined the handwriting and fingerprint expert, however, his opinion has not been found reliable and trustworthy. The Courts have found that handwriting and fingerprint expert examined by the plaintiffs is more reliable.

3.5 The handwriting and fingerprint experts can only give their opinion on a particular issue, however, the same is not binding on the Courts.

3.6 In the agreement to sell, Smt. Paramjit Kaur, defendant has acknowledged receipt of total payment i.e. Rs.8,19,428/-. The plaintiffs are in the business. The recital of payment of Rs.8,19,428/- in the agreement to sell, which is signed by the defendant could not be doubted merely because defendant is denying. She has failed to prove that such recital is incorrect.

3.7 The plaintiff No.1 Sh. Amarjit Singh appeared as PW-1. He has categorically stated that the entire payment was paid by him after borrowing certain amount from his relatives. There are no cogent reasons to doubt the correctness of recital in the agreement to sell.

3.8 Though, the plaintiffs claim to be in possession, however, in the revenue record, after the death, Smt. Balbir Kaur or her sons are reflected in



possession. Hence, the plaintiffs have prayed for decree of possession.

3.9 Learned counsel for the appellant has not made any other submission.

4. Decision:-

4.1 Consequently, finding no merit, the appeal is dismissed.

4.2 All the pending miscellaneous applications, if any, are also disposed of.

10th March, 2025

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(ANIL KSHETARPAL)
JUDGE

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